

Future of Florida's Families Committee

Wednesday, February 22, 2006 10:30 AM – 12:00 PM 12 House Office Building



Florida House of Representatives Future of Florida's Families Committee

Chair

Bill Galvano

AGENDA February 22, 2006 10:30 AM – Noon 12 House Office Building

Opening Remarks by Chair Galvano

Consideration of the following bills:

HB 221 Rep. Richardson - Paternity

HB 599 Rep. Cannon - Faith-based Advisory Board

HB 619 Rep. Gibson, H. – Florida Substance Abuse and Mental Health Corporation

Presentations from the Office of Program Policy Analysis and Government Accountability (OPPAGA) relating to:

- Additional Improvements Are Needed as DCF Redesigns Its Lead Agency Oversight Systems, Report No. 06-05, January 2006
- Improvements in Independent Living Services Will Better Assist State's Struggling Youth, Report No. 05-61, December 2005

Closing Remarks by Chair Galvano

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #:

HB 221

Paternity

SPONSOR(S): Richardson; Kendrick

TIED BILLS:

None

IDEN./SIM. BILLS: SB 438

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Civil Justice Committee	_6Y,0N	Shaddock	Bond \cap
2) Future of Florida's Families Committee		Preston Cop	Collins 20
3) Justice Council			— -
4)			-
5)			

SUMMARY ANALYSIS

Paternity is the state or condition of being a father to a child. A child born during a valid marriage is presumed to be the legitimate and legal child of the husband and wife, whereas paternity must be established for children born out of wedlock. Current law does not provide a means for challenging a judgment of paternity, but a general court rule applicable to all civil actions effectively prohibits a father from challenging a paternity determination later than one year after entry of the judgment.

This bill provides that a father may challenge a paternity judgment at any time until the child's 18th birthday, provided that DNA testing shows he is not the biological father, his support payments are current, and he has not adopted the child. If the father prevails, his future child support obligations will terminate.

This bill may have an unknown but negative recurring fiscal impact on state government revenues. This bill does not appear to have a fiscal impact on local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives. STORAGE NAME: h0221b.FFF.doc 2/20/2006

DATE:

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility -- This bill may allow a father to, years after the entry of a paternity judgment, set the judgment aside and stop paying child support. This may result in mothers and their children losing court ordered support, and force them into seeking public assistance until the actual father can be found (if he can be).

Empower families -- This bill allows a man required to pay child support as the father of a child to petition to set aside the determination of paternity upon meeting certain conditions. This may have the effect of affecting relationships between family members and may decrease family stability.

B. EFFECT OF PROPOSED CHANGES:

Establishment of Paternity

A child born during a valid marriage is presumed to be the legitimate and legal child of the husband and wife. Paternity is defined as "the state or condition of being a father." In order to establish paternity for children born out of wedlock, s. 742.10, F.S., sets forth the criteria. A determination of paternity must be established by clear and convincing evidence.³ In any proceeding to establish paternity, the court may on its own motion require the child, the mother, and the alleged father to submit to scientific tests generally relied upon for establishing paternity. A woman who is pregnant or who has a child, any man who has reason to believe he is the father of a child, or any child may bring a proceeding to determine the paternity of the child when the paternity has not otherwise been established.⁵

A male can acknowledge paternity by a notarized voluntary acknowledgement or a voluntary acknowledgement signed under penalty of perjury in the presence of two witnesses. These acknowledgements create a rebuttable presumption of paternity, subject to the right of rescission within 60 days of the date of signing the acknowledgement. 6 After the expiration of the 60-day period, the signed voluntary acknowledgement of paternity constitutes an establishment of paternity and is only subject to challenge in court on the basis of fraud, duress, or material mistake of fact. However, the challenger to the determination of paternity is still responsible for his legal responsibilities, including child support, during the pendency of the challenge, except upon a finding of good cause by the court.8

Currently, there is no statute authorizing a male who has been determined to be the father of a child to challenge that determination and be discharged from making child support payments. In order for a man determined to be the father of a child to be relieved of his child support obligation, he must bring an action pursuant to Florida Rules of Civil Procedure 12.540⁹ and 1.540. Rule 1.540(b), entitled "Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc.," states in pertinent part that a party may file a motion for relief:

¹ Section 382.013(2)(a), F.S.; Dep't of Revenue v. Cummings, 871 So. 2d 1055, 1059 (Fla. 2d DCA 2004) (citations omitted).

Black's Law Dictionary, 1163 (rev. 8th ed. 2004)

³ Section 742.031, F.S.; *T.J. v. Dep't of Children & Families*, 860 So. 2d 517, 518 (Fla. 4th DCA 2003).

Section 742.12(1), F.S.

⁵ Section 742.011, F.S.

Section 742.10(1), F.S.

Section 742.10(4), F.S.

⁸ *ld*.

⁹ Rule 12.540 provides that Rule 1.540 "shall govern general provisions concerning relief from judgment, decrees, or orders, except that there shall be no time limit for motions based on fraudulent financial affidavits in marital or paternity cases.'

from a final judgment, decree, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial or rehearing; (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party . . . The motion shall be filed within a reasonable time, and for reasons (1), (2), and (3) not more than 1 year after the judgment, decree, order, or proceeding was entered or taken. A motion under this subdivision does not affect the finality of a judgment or decree or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, decree, order, or proceeding or to set aside a judgment or decree for fraud upon the court. [emphasis in italics not in original]

Once paternity has been adjudicated, unless there is a showing of fraud upon the court, "a paternity order is res judicata on the issue of paternity, and relitigation of the paternity issues is unauthorized in connection with any subsequently-filed motion for contempt for failure to pay court-ordered child support." A final judgment of dissolution of marriage that establishes a child support obligation for a former husband is a final determination of paternity, and any subsequent paternity challenge must be brought pursuant to rule 1.540. 11

In other words, the key section of the above rule under which a petitioner may seek relief from an order of paternity is Rule 1.540(b)(3) (the fraud provision). A petition would be required to demonstrate fraud, either extrinsic or intrinsic, within the one year time limitation imposed by the rule.

Extrinsic fraud "occurs where a defendant has somehow been prevented from participating in a cause." One may seek relief from extrinsic fraud by filing an independent action in equity attacking the final judgment. Nevertheless, due to the constraints of the definition, extrinsic fraud generally is not available as an avenue for relief for a petitioner seeking relief from an adverse paternity finding.

Intrinsic fraud, on the other hand, is fraudulent conduct that arises within a proceeding and pertains to the issues in the case that have been tried or could have been tried.¹⁵ The Florida Supreme Court has expressly found, consistent with the general rule, "that false testimony given in a proceeding is intrinsic fraud."¹⁶ Florida Rule of Civil Procedure 1.540(b) authorizes an action for relief from a final judgment which was obtained through intrinsic fraud, among other grounds, but within a one-year time limitation.¹⁷ Failure to act within that one year will preclude the court from hearing any additional evidence concerning paternity and will act as a procedural bar to a petitioner's relief.

In a non-marital paternity dispute, the Second District Court of Appeal has determined that a man who was informed by the mother that he was the father of her child, and who was named as the biological father in a final judgment of paternity, could not have the judgment of paternity vacated six years later

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¹⁰ Dep't of Revenue v. Clark, 866 So. 2d 129 (Fla. 4th DCA 2004)(quoting Dep't of Revenue v. Gouldbourne, 648 So. 2d 856 (Fla. 4th DCA 1995)).

¹¹ D.F. v. Dep't of Revenue, 823 So. 2d 97, 100 (Fla. 2002).

¹² DeClaire v. Yohanon, 453 So. 2d 375, 377 (Fla. 1984).

The Florida Supreme Court, in *DeClaire*, pointed to the United States Supreme Court's definition of extrinsic fraud as authoritative. *Declaire*, 453 So.2d at 377. That definition, from *United States v. Throckmorton*, 98 U.S. 61, 65-66 (1878), provides: Where the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise; or where the defendant never had knowledge of the suit, being kept in ignorance by the acts of the plaintiff; or where an attorney fraudulently or without authority assumes to represent a party and connives at his defeat; or where the attorney regularly employed corruptly sells out his client's interest to the other side—these, and similar cases which show that there has never been a real contest in the trial or hearing of the case, are reasons for which a new suit may be sustained to set aside and annul the former judgment or decree, and open the case for a new and a fair hearing. (Citations omitted.)

¹⁴ *DeClaire*, 453 So. 2d at 378.

¹⁵ *DeClaire*, 453 So. 2d at 379.

¹⁶ *Id*.

¹⁷ DeClaire, 453 So. 2d at 377.

absent a showing that the mother had committed a fraud on the court at the time of the original paternity action. Any subsequent blood testing of the alleged father, mother, and child would not change the alleged father's monetary obligations to the child in the absence of proof of fraud on the court. The fact that, six years later, the mother submitted an affidavit expressing her belief that the man paying child support was not the biological father, did not constitute evidence of fraud on the court.

Furthermore, the Fifth District Court of Appeal on December 2, 2005, held that a trial court erred in setting aside a judgment of paternity to which father stipulated in 1991, and in reducing child support arrearages to zero, on ground that DNA test results showed zero percent probability of paternity.²¹ The judgment could not be vacated under Rule 1.540(b)(3), since the motion was not timely filed within one year.²² Additionally, the motion was premised on intrinsic fraud, it concerned allegations of perjury or misrepresentation, and the court could not properly vacate judgment under Rule 1.540(b)(5), which provides that court may relieve party from final judgment if it is no longer equitable that the judgment should have prospective application. Equity "is not available to deprive a child of parental support based on facts that could have been determined prior to entry of the stipulated judgment of paternity."²³ Therefore, the "judgment [was] entitled to res judicata effect."²⁴

Finally, in an opinion released on November 30, 2005, the Fourth District Court of Appeal, was confronted with a situation in which a male and female were married when a child was born.²⁵ The female represented to the male that he was the biological father of the child. Three years later the couple was divorced and the male was obligated to pay child support. After the child's fifth birthday the former husband filed an action maintaining that he was not the child's biological father and DNA testing excluded him as such.²⁶ The former husband's petition was dismissed by the trial court and that decision was affirmed by the appellate court. The court grappled with what it termed a "fundamental choice" in a case such as the one before them "between the interests of the legal father on the one hand and the child on the other."27 The main issue, according to the court, "affecting the child in a disestablishment suit is the psychological devastation that the child will undoubtedly experience from losing the only father he or she has ever known."28 On the other hand, the former husband "may feel victimized,"29 however, an adult is best able to "absorb the pain of betrayal rather than inflict additional betrayal on the involved children."³⁰ The court concluded, "the issue of paternity misrepresentation in marital dissolution proceedings is a matter of intrinsic fraud. It is not extrinsic fraud, or a fraud upon the court, that can form the basis for relief from judgment more than a year later. Any relevant policy considerations that would compel a different result are best addressed by the legislature."31

Effect of Bill

DATE:

This bill provides an avenue for a male, in any action where he has been required to pay child support as the father of a child, to file a petition to set aside a determination of paternity. The petition to set aside may be filed at any time, up to the child's eighteenth (18) birthday.

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18 State, Dep't of Revenue v. Pough, 723 So. 2d 303, 306 (Fla. 2d DCA 1998).

19 Id.

20 Id.

21 Dep't of Revenue v. Boswell, 915 So. 2d 717 (Fla. 5th DCA 2005).

22 Boswell, 915 So. 2d at 723.

23 Boswell, 915 So. 2d at 723.

24 Id.

25 Parker v. Parker, 2005 WL 3179971 (Fla. 4th DCA Nov. 30, 2005).

26 Id.

27 Parker, 2005 WL 3179971, *5.

28 Id.

29 Parker, 2005 WL 3179971, *6.

30 Parker, 2005 WL 3179971, *6 (citation omitted).

31 Parker, 2005 WL 3179971, *6.

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A petition to set aside a determination of paternity must be filed in the circuit court and served on the mother or other legal guardian or custodian and must include:

- An affidavit from the petitioner affirming that newly discovered evidence has come to his knowledge since the entry of judgment;
- The results of scientific testing, generally accepted within the scientific community for showing a
 probability of paternity, administered within 90 days prior to the filing of such a petition,
 indicating that the male ordered to pay child support cannot be the father of the child for whom
 he is required to pay support; and
- An affidavit executed by the petitioner stating that he is current on all child support payments for the child whose paternity is in question.

The trial court must grant relief on a petition that complies with the above requirements if the court finds that all of the following have been met:

- The genetic test was properly conducted;
- The male is current on all child support payments for the child;
- The male ordered to pay child support has not adopted the child;
- The child was not conceived by artificial insemination while the child's mother and the male who is ordered to pay child support were married;
- The male ordered to pay child support did not prevent the biological father of the child from asserting parental rights over the child; and
- The male ordered to pay child support with knowledge that he is not the biological father of the child has not:
 - Married the child's mother and voluntarily assumed a parental obligation and duty to pay support;
 - Acknowledged paternity of the child in a sworn statement;
 - Been named by his consent as the child's biological father on the child's birth certificate;
 - Been required to support the child because of a voluntary written promise;
 - Disregarded a written notice from any state agency or court instructing him to submit to genetic testing;
 - Signed a voluntary acknowledgement of paternity pursuant to section 742.10(4), Florida Statutes; or
 - Declared himself to be the child's biological father.

If the petitioner fails to make the showing required by this section, the court must deny the petition.

If the trial court grants relief, it must be limited to the issues of prospective child support payments and termination of parental rights, custody, and visitation rights. This section does not create a cause of action for the recovery of previously paid child support.

While the petition is pending, the duty to pay child support and other legal obligations for the child remain in effect and may be suspended unless good cause is shown. The court may order child support payments to be held in the court registry until the final determination of paternity has been made.

If the genetic testing results are provided solely by the male ordered to pay child support, the court may, on its own motion, and must, on the motion of any party, order the child's mother, the child, and the male to submit to genetic tests. This genetic testing must occur within 30 days of an order by the trial court.

Should the child's mother or the male ordered to pay child support willfully refuse to submit to genetic testing, or if either party, as custodian of the child, willfully fails to submit the child for testing, the court must issue an order granting relief on the petition against the party failing to submit to genetic testing. If a party shows good cause for failing to submit to genetic testing, the failure will not be considered willful.

The party requesting genetic testing must pay any fees charged for the tests. If the child's custodian receives services from an administrative agency providing enforcement of child support orders, the agency must pay the costs of genetic testing if it requests the test, and the agency may seek reimbursement for the fees from the person against whom the court assesses the costs of the action.

If relief is not granted on a petition filed in accordance with this section, the court must assess costs and attorney's fees against the petitioner.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section establishing grounds by which a man required to pay child support as the father of a child may petition to set aside a determination of paternity. The bill may fit within Chapter 742, Determination of Parentage, Chapter 39, Proceedings Relating to Children, or another provision of Florida Statutes.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Unknown, but it appears that this bill may have a negative recurring fiscal impact on state revenues. See Fiscal Comments.

2. Expenditures:

Unknown, but it appears that this bill may have some impact on state government. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may relieve a financial burden on men ordered to pay child support for children who are not their biological children. Additionally, this bill authorizes setting aside of paternity determinations and stopping prospective child support payments and the cessation of these payments will undoubtedly impact the child(ren) and the mothers. Finally, a child who is legally considered to be the "child" of a male is entitled to inheritance rights that would also be eliminated should a paternity judgment be set aside.

D. FISCAL COMMENTS:

This bill may have a fiscal impact on the Department of Revenue, as the department would no longer be able to seek reimbursement for services provided to the mother from the male formerly determined to be the father. This bill may have a fiscal impact on the Department of Revenue, as the department would expend resources to locate the "new" father if there is a judicial determination on a petition to set aside a paternity that the original male who was required to pay child support payments is not the "father" of the child(ren). Also, loss of child support payments to a mother and her child(ren) may result in that family having to receive public assistance.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Separation of Powers

This bill might raise a separation of powers issue, because it allows for a petition to set aside a determination of paternity to be brought "at any time," although the procedural rules established by the Supreme Court restrict challenges to final orders and judgments to one year from entry of the judgment or order, except in cases of fraud upon the court. This bill could raise a constitutional concern if it were considered a procedural rather than a substantive law, although it can be argued that this bill constitutes substantive law.³²

With respect to the separation of powers issue, several Supreme Court justices and appellate court judges have urged the Legislature to address paternity issues, although the courts' concern seems to focus on the paternity of children whose mothers are married to men who are not the biological fathers of their children.³³

In *Anderson*, the Florida Supreme Court noted that "this is another case requiring the Court to define the law regarding a child support obligation of a husband who is not the biological father of the child." The supreme court upheld the trial court's determination that the father had not proven "by a preponderance of the evidence that he had been defrauded into believing that the minor child was his." Justice Pariente dissented, stating that:

³⁴ Anderson, 845 So. 2d at 870.

³² Altenbernd, Quasi-Marital Children, 26 Fla. St. U. L. Rev. at 260-61 (noting that in a due process challenge, the Supreme Court has upheld a statute's conclusive presumption of fatherhood as a substantive rule of law supported by social policy concerns) (citing *Michael H. v. Gerald D.*, 491 U.S. 110 (1989)).

³³ Anderson v. Anderson, 845 So. 2d 870, 872-874 (2003)(Pariente, J., dissenting); *D.F.*, 823 So. 2d at 101-03 (Pariente, J., concurring); *Fla. Dep't of Revenue v. M.L.S.*, 756 So. 2d 125, 127-33 (Altenbernd, J., dissenting); *Lefler*, 722 So. 2d at 942-44 (Klein, J., specially concurring).

³⁵ *Id.* at 871.

Cathy Anderson's unequivocal, affirmative response to Michael Anderson that the child was his constituted a misrepresentation under Florida Rule of Civil Procedure 1.540(b)(3) In light of this affirmative misrepresentation, it was error to refuse to set aside the final judgment of dissolution in this case based on his timely filed postjudgment motion.

... a father should be able to rely on the unequivocal, affirmative representations of his wife that he is the father of her child, and should not be obligated to request DNA testing during the divorce action to disprove this presumed fact.³⁶

In *D.F.*, where the supreme court held that a final judgment of dissolution of marriage establishing a child support obligation for a former husband is a final determination of paternity, subject to challenge only through rule 1.540, Justice Pariente concurred, stating:

I write separately to urge the Legislature to address the difficult issues raised in cases such as this one. Cases involving the rights and responsibilities of biological and non-biological parents are no doubt fraught with difficult social issues that translate into complicated legal issues. The legal problems that arise are not limited to the area of child support, but also may arise in the area of probate, wrongful death, adoption, and actions to terminate parental rights.³⁷

Finally, as mentioned above the Fourth District Court of Appeal, in *Parker*, stated, "the issue of paternity misrepresentation in marital dissolution proceedings is a matter of intrinsic fraud. It is not extrinsic fraud, or a fraud upon the court, that can form the basis for relief from judgment more than a year later. Any relevant policy considerations that would compel a different result are best addressed by the legislature."³⁸

Due Process

The bill may infringe upon the child's due process rights by failing to provide the child with representation in a process which will significantly affect the child's legal rights and may leave him or her without a father and without financial support. A child has a constitutional due process right to retain his or her legitimacy if doing so is in the child's best interest. ³⁹ The child has a strong interest in maintaining legitimacy and stability, ⁴⁰ and the legal recognition of a biological father other than the legal father will affect the heretofore legal father's rights to the care, custody, and control of the child. ⁴¹ Because the law does not recognize "dual fathership," ⁴² the entry of a judgment of paternity and, presumably, the entry of an order rescinding a determination of paternity, affects the legal rights of both the father and the child. ⁴³

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

There is no provision in the bill for considering the best interests of the child, nor is there any requirement that the court consider appointing a guardian ad litem for the child.

³⁶ Id. at 872-73.

³⁷ D.F., 823 So. 2d at 101.

³⁸ Parker, 2005 WL 3179971, *6.

³⁹ Dep't of Health & Rehab. Servs. v. Privette, 716 So. 2d 305, 307 (Fla. 1993).

⁴⁰ *R.H.B. v. J.B.W.*, 826 So. 2d 346, 350 n.5 (Fla. 2d DCA 2002) (citation omitted).

⁴¹ Dep't of Revenue v. Cummings, 871 So. 2d 1055, 1060 (Fla. 2d DCA 2004).

⁴² G.F.C. v. S.G., 686 So. 2d 1382, 1386 (Fla. 5th DCA 1997).

⁴³ See Cummings, 871 So. 2d at 1060.

The bill contains no provision or process for amending the birth certificate if relief is granted.

The bill in lines 61-63 uses the term "disregarded" without providing a specific definition for the term or incorporating a timeframe which could be utilized for to assist in defining the term.

The bill on line 28 uses the term "cannot," in reference to results of paternity testing, yet it would appear that DNA testing is measured in terms of probability rather than such finite terms.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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Bill No. 0221

COUNCIL/COMMITTEE	ACTION
ADOPTED	(Y/N)
ADOPTED AS AMENDED	(Y/N)
ADOPTED W/O OBJECTION	(Y/N)
FAILED TO ADOPT	(Y/N)
WITHDRAWN	(Y/N)
OTHER	

Council/Committee hearing bill: Future of Florida's Families Committee

Representative(s) Richardson offered the following:

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Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. (1) This section establishes circumstances
under which a male may disestablish paternity or terminate a
child support obligation when the male is not the biological
father of the child. To disestablish paternity or terminate a
child support obligation, the male must file a petition in the
court with continuing jurisdiction over the child support
obligation. The petition must also be served on the mother or
other legal guardian or custodian of the child. If the child
support obligation was determined administratively and has not
been ratified by a court, then the petition must be filed in the
circuit court where the mother or legal guardian or custodian of
the child resides. Such a petition must be served on the
Department of Revenue and on the mother or other legal guardian
or custodian. The petition must include:

(a) An affidavit executed by the petitioner that newly discovered evidence relating to the paternity of the child has

Amendment No. 1

come to the petitioner's knowledge since the initial paternity determination or establishment of a child support obligation.

- (b) The results of scientific tests that are generally acceptable within the scientific community to show a probability of paternity, administered within 90 days prior to the filing of such petition, which results indicate that the male ordered to pay such child support cannot be the father of the child for whom support is required or an affidavit executed by the petitioner stating that he did not have access to the child to have scientific testing performed prior to the filing of the petition. A male who suspects he is not the father but does not have access to the child to have scientific testing performed may file a petition requesting the court to order the child to be tested.
- (c) An affidavit executed by the petitioner stating that the petitioner is current on all child support payments for the child for whom relief is sought or that he has substantially complied with his child support obligation for the applicable child and that any delinquency in his child support obligation for that child arose from his inability for just cause to pay the delinquent child support when the delinquent child support became due.
- (2) The court shall grant relief on a petition filed in accordance with subsection (1) upon a finding by the court of all of the following:
- (a) Newly discovered evidence relating to the paternity of the child has come to the petitioner's knowledge since the initial paternity determination or establishment of a child support obligation.
- (b) The scientific test required in paragraph (1)(b) was properly conducted.

- (c) The male ordered to pay child support is current on all child support payments for the applicable child or that the male ordered to pay child support has substantially complied with his child support obligation for the applicable child and that any delinquency in his child support obligation for that child arose from his inability for just cause to pay the delinquent child support when the delinquent child support became due.
- (d) The male ordered to pay child support has not adopted the child.
- (e) The child was not conceived by artificial insemination while the male ordered to pay child support and the child's mother were in wedlock.
- (f) The male ordered to pay child support did not act to prevent the biological father of the child from asserting his paternal rights with respect to the child.
- (g) The child had not yet reached his or her 18th birthday when the petition was filed.
- (3) Notwithstanding subsection (2), a court shall not set aside the paternity determination or child support order if the male engaged in the following conduct after learning that he is not the biological father of the child:
- (a) Married the mother of the child while known as the putative father in accordance with s. 742.091, Florida Statutes, and voluntarily assumed the parental obligation and duty to pay child support;
- (b) Acknowledged his paternity of the child in a sworn statement;
- (c) Consented to be named as the child's biological father on the child's birth certificate;

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- (d) Voluntarily promised in writing to support the child and was required to support the child based on that promise;
- (e) Received and disregarded written notice from any state agency or any court directing him to submit to scientific testing; or
- (f) Signed a voluntary acknowledgment of paternity as provided in s. 742.10(4), Florida Statutes.
- (4) In the event the petitioner fails to make the requisite showing required by this section, the court shall deny the petition.
- (5) In the event relief is granted pursuant to this section, relief shall be limited to the issues of prospective child support payments and termination of parental rights, custody, and visitation rights. The male's previous status as father continues to be in existence until the order granting relief is rendered. All previous lawful actions taken based on reliance on that status are confirmed retroactively but not prospectively. This section shall not be construed to create a cause of action to recover child support that was previously paid.
- The duty to pay child support and other legal obligations for the child shall not be suspended while the petition is pending except for good cause shown. However, the court may order the child support to be held in the registry of the court until final determination of paternity has been made.
- (7) (a) In an action brought pursuant to this section, if the scientific test results submitted in accordance with paragraph (1)(b) are provided solely by the male ordered to pay child support, the court on its own motion may, and on the petition of any party shall, order the child and the male ordered to pay child support to submit to applicable scientific

Amendment No. 1

tests. The court shall provide that such scientific testing be done no more than 30 days after the court issues its order.

- (b) If the male ordered to pay child support willfully fails to submit to scientific testing or if the mother or legal guardian or custodian of the child willfully fails to submit the child for testing, the court shall issue an order determining the relief on the petition against the party so failing to submit to scientific testing. If a party shows good cause for failing to submit to testing, such failure shall not be considered willful. Nothing in this paragraph shall prevent the child from reestablishing paternity under s. 742.10, Florida Statutes.
- (c) The party requesting applicable scientific testing shall pay any fees charged for the testing. If the custodian of the child is receiving services from an administrative agency in its role as an agency providing enforcement of child support orders, that agency shall pay the cost of the testing if it requests the testing and may seek reimbursement for the fees from the person against whom the court assesses the costs of the action.
- (8) If relief on a petition filed in accordance with this section is granted, the clerk of the court shall, within 30 days following final disposition, forward to the Office of Vital Statistics of the Department of Health a certified copy of the court order or a report of the proceedings upon a form to be furnished by the department, together with sufficient information to identify the original birth certificate and to enable the department to prepare a new birth certificate. Upon receipt of the certified copy or the report, the department shall prepare and file a new birth certificate that deletes the name of the male ordered to pay child support as the father of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

146	the child. The certificate shall bear the same file number as
147	the original birth certificate. All other items not affected by
148	the order setting aside a determination of paternity shall be
149	copied as on the original certificate, including the date of
150	registration and filing. If the child was born in a state other
151	than Florida, the clerk shall send a copy of the report or
152	decree to the appropriate birth registration authority of the
153	state where the child was born. If the relief on a petition
154	filed in accordance with this section is granted and the mother
155	or legal guardian or custodian requests that the court change
156	the child's surname, the court may change the child's surname.
157	If the child is a minor, the court shall consider whether it is
158	in the child's best interests to grant the request to change the
159	child's surname.

- (9) The rendition of an order granting a petition filed pursuant to this section shall not affect the legitimacy of a child born during a lawful marriage.
- (10) If relief on a petition filed in accordance with this section is not granted, the court shall assess the costs of the action and attorney's fees against the petitioner.
- (11) Nothing in this section precludes an individual from seeking relief from a final judgment, decree, or order of proceeding pursuant to Rule 1.540, Florida Rules of Civil Procedure, or from challenging a paternity determination pursuant to s. 742.10(4), Florida Statutes.
 - Section 2. This act shall take effect July 1, 2006.

173 ======= T I T L E A M E N D M E N T ========

Delete everything before the enacting clause and insert:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

A bill to be entitled

An act relating to paternity; permitting a petition to set aside a determination of paternity or terminate a child support obligation; specifying contents of the petition; providing standards upon which relief shall be granted; providing remedies; providing that child support obligations shall not be suspended while a petition is pending; providing for scientific testing; providing for the amendment of the child's birth certificate; providing for assessment of costs and attorney's fees; providing an effective date.

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A bill to be entitled

An act relating to paternity; permitting a sworn petition to set aside a determination of paternity prior to the child's 18th birthday; specifying contents of the petition; providing standards upon which relief shall be granted; providing remedies; providing that child support obligations shall not be suspended while a petition is pending; providing for genetic testing; providing for assessment of costs and attorney's fees; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

- Section 1. (1) In any action in which a male is required to pay child support as the father of a child, a sworn petition to set aside a determination of paternity may be made at any time prior to the child's 18th birthday upon the grounds set forth in this section. Any such sworn petition shall be filed in the circuit court and shall be served on the mother or other legal guardian or custodian. The petition shall include:
- (a) An affidavit executed by the petitioner that newly discovered evidence has come to the petitioner's knowledge since the entry of judgment.
- (b) The results of scientific tests that are generally acceptable within the scientific community to show a probability of paternity, administered within 90 days prior to the filing of such petition, which results indicate that the male ordered to

Page 1 of 5

pay such child support cannot be the father of the child for whom support is required. A male who suspects he is not the father but does not have access to the child to have genetic testing performed may file a petition requesting the court to order the child to be tested.

- (c) An affidavit executed by the petitioner stating that the petitioner is current on all child support payments for the child for whom relief is sought.
- (2) The court shall grant relief on a petition filed in accordance with subsection (1) upon a finding by the court of all of the following:
- (a) The genetic test required in paragraph (1)(b) was properly conducted.
- (b) The male ordered to pay child support is current on all child support payments.
- (c) The male ordered to pay child support has not adopted the child.
- (d) The child was not conceived by artificial insemination while the male ordered to pay child support and the child's mother were in wedlock.
- (e) The male ordered to pay child support did not act to prevent the biological father of the child from asserting his paternal rights with respect to the child.
- (f) The male ordered to pay child support with knowledge that he is not the biological father of the child has not:
- 1. Married the mother of the child and voluntarily assumed the parental obligation and duty to pay child support;

Page 2 of 5

2. Acknowledged his paternity of the child in a sworn statement;

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- 3. Been named as the child's biological father on the child's birth certificate with his consent;
- 4. Been required to support the child because of a voluntary written promise;
- 5. Received written notice from any state agency or any court directing him to submit to genetic testing which he disregarded;
- 6. Signed a voluntary acknowledgment of paternity as provided in s. 742.10(4), Florida Statutes; or
 - 7. Proclaimed himself to be the child's biological father.
- (3) In the event the petitioner fails to make the requisite showing required by this section, the court shall deny the petition.
- (4) In the event relief is granted pursuant to this section, relief shall be limited to the issues of prospective child support payments and termination of parental rights, custody, and visitation rights. The male's previous status as father continues to be in existence until the order granting relief is rendered. All previous lawful actions taken based on reliance on that status are confirmed. This section shall not be construed to create a cause of action to recover child support that was previously paid.
- (5) The duty to pay child support and other legal obligations for the child shall not be suspended while the petition is pending except for good cause shown. However, the

Page 3 of 5

court may order the child support to be held in the registry of the court until final determination of paternity has been made.

- (6) (a) In an action brought pursuant to this section, if the genetic test results submitted in accordance with paragraph (1) (b) are provided solely by the male ordered to pay child support, the court on its own motion may, and on the petition of any party shall, order the child's mother, the child, and the male ordered to pay child support to submit to genetic tests. The court shall provide that such genetic testing be done no more than 30 days after the court issues its order.
- (b) If the mother of the child or the male ordered to pay child support willfully fails to submit to genetic testing or if either such party is the custodian of the child and willfully fails to submit the child for testing, the court shall issue an order determining the relief on the petition against the party so failing to submit to genetic testing. If a party shows good cause for failing to submit to genetic testing, such failure shall not be considered willful.
- (c) The party requesting genetic testing shall pay any fees charged for the tests. If the custodian of the child is receiving services from an administrative agency in its role as an agency providing enforcement of child support orders, that agency shall pay the cost of genetic testing if it requests the test and may seek reimbursement for the fees from the person against whom the court assesses the costs of the action.

(7) If relief on a petition filed in accordance with this section is not granted, the court shall assess the costs of the action and attorney's fees against the petitioner.

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Section 2. This act shall take effect July 1, 2006.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #:

HB 599

Florida Faith-based and Community-based Advisory Board

SPONSOR(S): Cannon TIED BILLS:

IDEN./SIM. BILLS: CS/SB 1232

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families Committee		Preston U	Collins Bel
2) Transportation & Economic Development Appropriations Committee			
3) Health & Families Council			
4)			
5)			

SUMMARY ANALYSIS

The bill statutorily establishes the Florida Faith-based and Community-based Advisory Board which was created by Executive Order of the Governor in November 2004 (Number 04-245). The bill assigns the board to the Executive Office of the Governor and provides that it be administratively housed within the Executive Office of the Governor. The board is to consist of 25 members: 17 appointed by the Governor; four appointed by the President of the Senate; and four appointed by the Speaker of the House of Representatives. Members are appointed for four year terms, with the initial terms being staggered. The board will meet at least once per quarter per calendar year, and will work in partnership with the Volunteer Florida Foundation, Inc., a nonprofit direct support organization equipped to accomplish the intent and purposes of the bill.

The bill specifies the activities of the board, and requires an annual report be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives that documents the board's activities and recommended policies, priorities, and objectives for the state's effort to facilitate the involvement of faith-based, volunteer, and other community-based organizations.

The board is prohibited from recommending any public program that conflicts with the Establishment Clause of the First Amendment to the United States Constitution or s. 3, Art. I of the State Constitution. The board is abolished June 30, 2011, unless reviewed and recreated by the Legislature.

There may be an insignificant fiscal impact related to state government from the bill.

2/8/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – Members of the board may include representatives from various faiths, faith-based organizations, community-based organizations, foundations, corporations, and municipalities. Serving on the advisory board will create additional responsibilities, obligations, and work for these individuals.

B. EFFECT OF PROPOSED CHANGES:

Background

The change in thinking represented by Charitable Choice¹ is not the provision of social services by faith-based organizations, nor is it the government funding of religious providers. Many such religiously affiliated organizations, including Catholic Charities, Jewish Family Services, Lutheran Social Services and The Salvation Army have a long and well established history of receiving government funds through contracts and grants to serve the needy. Charitable Choice represents a change in previous practice by allowing all faith-based organizations to compete for government funding to provide social services, regardless of their religious nature. As a result, the initiative serves to significantly expand the scope of government financial collaboration with the faith community.

The National Conference of State Legislatures (NCSL) conducted a survey of state faith-based initiatives in all 50 states in early 2002 and reported that states that have implemented faith-based initiatives started with similar first steps, including, but not limited to, the creation of an office of faith-based initiatives or a state liaison for faith-based and community leaders.²

In November 2004, Governor Jeb Bush signed an Executive Order³ creating a faith-based and community advisory board. The board's mission is to help state government coordinate efforts to utilize and expand opportunities for faith-based and community-based organizations to address social needs in Florida's communities. The 25-member, Governor-appointed board serves as a policy advisor to the Governor on policies, priorities, and objectives for the state's comprehensive effort to enlist, equip, enable, empower, and expand the work of faith-based, volunteer, and other community organizations to the full extent permitted by law.

Effect of Proposed Changes

The bill codifies the existing advisory board created by Executive Order Number 04-245. The Florida Faith-based and Community-based Advisory Board (board) is established in statute and assigned to the Executive Office of the Governor. The bill provides that the purpose of the board is to advise the Governor and the Legislature on policies, priorities, and objectives for the state's comprehensive effort to enlist, equip, enable empower, and expand the work of faith-based, volunteer, and other community organizations.

The bill provides that the board is administratively housed within the Executive Office of the Governor. The board is to consist of 25 members, with 17 appointed by the Governor; four appointed by the

STORAGE NAME: DATE:

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¹ Although the concept of "Charitable Choice" is often used generally in reference to government funding of faith-based social service programs, in actuality, it is a legal term of art that refers to specific legislative provisions that first appeared in the 1996 federal welfare reform law. See The Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Public Law 104-193, Section 104, 1996.

² Jarchow, C. Faith-Based Initiatives in Welfare Reform. National Conference of State Legislatures. May 2002.

³ Executive Order No. 04-245, November 18, 2004.

President of the Senate; and four appointed by the Speaker of the House of Representatives. Members are appointed for four year terms, with the initial terms being staggered. The board must meet at least once per quarter per calendar year.

The activities of the board are specified and an annual report is required to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives that contains an accounting of the board's activities and recommended policies, priorities, and objectives for the state's effort to facilitate the involvement of faith-based, volunteer, and other community-based organizations in service provision.

The board is prohibited from recommending any public program that conflicts with the Establishment Clause of the First Amendment to the United States Constitution or s. 3, Art. I of the State Constitution and is abolished June 30, 2010, unless reviewed and saved from repeal by the Legislature.

C. SECTION DIRECTORY:

Section 1. Creates section 14.31, Florida Statutes, relating to the Florida Faith-based and Community-based Advisory Board.

Section 2. Provides for an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Members of the board are not entitled to compensation for their service, but may be reimbursed for per diem and travel expenses pursuant to section 112.061, Florida Statutes.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill contains no appropriation for the implementation of the provisions of this bill. The Volunteer Florida Foundation reported that currently the advisory board created by Executive Order is being funded by private sources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

- C. DRAFTING ISSUES OR OTHER COMMENTS:
 - The bill reportedly codifies an existing Governor-appointed advisory board that was created in November 2004, by Executive Order of the Governor⁴ to help state government coordinate efforts to utilize and expand opportunities for faith-based and community-based organizations to address social needs in Florida's communities. The bill does not specify how the transition from a 25-member Governor-appointed board to the newly-created 25-member board with a membership appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives, will occur.
 - While the Executive Order creating the board which is assigned to the Executive Office of the Governor expires on January 1, 2007 at the end of the Governor's term, the bill provides for the board to be abolished June 30, 2011, which is a number of years after the term of the current Governor ends.
 - While there are numerous references in the bill to partnerships with government, there appear to be no members currently serving on the board from government entities, there is no mention of government agency representation in the bill, and there is no specific provision connecting the work of the board with executive agency liaisons.
 - The proper term for the description of an advisory body is "Council" rather than "Board."5
 - IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

⁴ Executive Order No. 04-245, November 18, 2004.

2/8/2006

⁵ See s. 20.03(7), Florida Statutes. STORAGE NAME: h0599.FFF.doc

DATE:

1 A bill to be entitled 2 An act relating to the Florida Faith-based and Community-3 based Advisory Board; creating s. 14.31, F.S.; providing legislative findings and intent; creating the Florida 4 Faith-based and Community-based Advisory Board within the 5 Executive Office of the Governor for certain purposes; 6 7 providing for board membership; providing for terms of members; providing for successor appointments; providing 8 9 for meetings and organization of the board; specifying serving without compensation; providing for per diem and 10 travel expenses; specifying required activities of the 11 board; specifying restricted activities; requiring a 12 report to the Governor and Legislature; providing for 13 14 future repeal and abolition of the board; providing an 15 effective date. 16 17 Be It Enacted by the Legislature of the State of Florida: 18 19 Section 1. Section 14.31, Florida Statutes, is created to 20 read: 21 Florida Faith-based and Community-based Advisory 22 Board.--(1) LEGISLATIVE FINDINGS. -- The Legislature finds that: 23 24 (a) Compassionate groups of individuals have selflessly 25 aided this state in serving our most vulnerable citizens and our 26 most debilitated neighborhoods.

Page 1 of 6

organizations have accomplished much in changing the lives of

Inspired by faith and civic commitment, these

CODING: Words stricken are deletions; words underlined are additions.

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thousands and resurrecting neighborhoods torn by the strife of crime and poverty.

- (c) Many beneficial opportunities may be lost if faith-based and community-based groups are not aware of opportunities to participate with government entities in serving the citizens of this state or are not equipped to participate on an equal basis, to the full extent permitted by law, in partnering or contracting with government entities for the delivery of services pursuant to a valid governmental purpose.
- (d) A fee-for-service or value-for-value contract with a faith-based or community-based organization in pursuit of a valid governmental purpose primarily aids taxpayers, not the organization, and a public program of general eligibility with a secular purpose in which faith-based or community-based organizations participate on a neutral basis is consistent with the First Amendment to the United States Constitution and s. 3, Art. I of the State Constitution.
- (e) Government may not advance or inhibit religious expression or endorse any particular type of religion over nonreligion but must not discriminate against the provision of services by faith-based or community-based providers who are otherwise qualified to provide services.
- (f) Volunteer Florida Foundation, Inc., is a nonprofit direct-support organization equipped to assist in securing training, technical assistance, and other support needed to accomplish the intent and purposes of this act.
- (2) LEGISLATIVE INTENT.--It is therefore the intent of the Legislature to recognize the contributions of faith-based and

Page 2 of 6

community-based organizations and to encourage opportunities for such organizations to partner with government entities to deliver services more effectively. The Legislature further intends that the purpose of the board is to advise the Governor and the Legislature on policies, priorities, and objectives for the state's comprehensive effort to enlist, equip, enable, empower, and expand the work of faith-based, volunteer, and other community organizations to the full extent permitted by law.

(3) ESTABLISHMENT OF THE BOARD. --

- (a) The Florida Faith-based and Community-based Advisory

 Board is established and assigned to the Executive Office of the

 Governor. The board shall be administratively housed within the

 Executive Office of the Governor.
- (b) The board shall consist of 25 members. Board members may include, but shall not be limited to, representatives from various faiths, faith-based organizations, community-based organizations, foundations, corporations, and municipalities.
 - (c) The board shall be composed of the following members:
- 1. Seventeen members appointed by and serving at the pleasure of the Governor.
- 2. Four members appointed by and serving at the pleasure of the President of the Senate.
- 3. Four members appointed by and serving at the pleasure of the Speaker of the House of Representatives.
- (d) Board members shall serve 4-year terms, except that the initial terms shall be staggered as follows:
 - 1. The Governor shall appoint six members for a term of 3

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years, six members for a term of 2 years, and five members for a term of 1 year.

- 2. The President of the Senate shall appoint two members for a term of 3 years and two members for a term of 2 years.
- 3. The Speaker of the House of Representatives shall appoint two members for a term of 3 years and two members for a term of 2 years.
- (e) A vacancy shall be filled by appointment by the original appointing authority for the unexpired portion of the term.
 - (4) MEETINGS; ORGANIZATION. --

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- (a) The first meeting of the board shall be held no later than August 1, 2006. Thereafter, the board shall meet at least once per quarter per calendar year. Meetings may be held via teleconference or other electronic means. The board shall work in partnership with the Volunteer Florida Foundation, Inc., in noticing and coordinating all meetings of the board.
- (b) The board shall annually elect from its membership one member to serve as chair of the board and one member to serve as vice chair.
- (c) Thirteen members of the board shall constitute a quorum.
- (d) Members of the board shall serve without compensation but may be reimbursed for per diem and travel expenses pursuant to s. 112.061.
 - (5) SCOPE OF ACTIVITIES. -- The board shall determine:
- 111 (a) How government may deliver state services with a valid governmental purpose on a neutral basis without regard to the

Page 4 of 6

religious or secular perspective of faith-based and communitybased organizations.

- (b) How best to develop and coordinate activities of faith-based and community-based programs and initiatives, enhance such efforts in communities, and seek such resources, legislation, and regulatory relief as may be necessary to accomplish these objectives.
- (c) How best to ensure that state policy decisions take into account the capacity of faith-based and other community-based initiatives to assist in the achievement of state priorities.
 - (d) How best to identify and promote best practices across state government relating to the delivery of services by faithbased and other community-based organizations.
 - (e) How best to coordinate public awareness of faith-based and community nonprofit initiatives, such as demonstration pilot programs or projects, public-private partnerships, volunteerism, and special projects.
- (f) How best to encourage private charitable giving to support faith-based and community-based initiatives.
 - (g) How best to bring concerns, ideas, and policy options to the Governor and Legislature for assisting, strengthening, and replicating successful faith-based and other community-based programs.
 - (h) How best to develop and implement strategic initiatives to strengthen the institutions of families and communities in this state.
 - (i) How best to showcase and herald innovative grassroots

Page 5 of 6

141 nonprofit organizations and civic initiatives.

- (j) How best to eliminate unnecessary legislative, regulatory, and other bureaucratic barriers that impede effective faith-based and other community-based efforts to address social problems.
- (k) How best to monitor implementation of state policy affecting faith-based and other community-based organizations.
- (1) How best to ensure that the efforts of faith-based and other community-based organizations meet objective criteria for performance and accountability.
- (6) RESTRICTED ACTIVITIES.--The board shall not recommend any public program that conflicts with the Establishment Clause of the First Amendment to the United States Constitution or s.

 3, Art. I of the State Constitution.
- (7) REPORT.--By February 1 of each year, the board shall prepare a written report for the Governor, the President of the Senate, and the Speaker of the House of Representatives containing an accounting of its activities and recommended policies, priorities, and objectives for the state's comprehensive effort to enlist, equip, enable, empower, and expand the work of faith-based, volunteer, and other community-based organizations to the full extent permitted by law.
- (8) REPEAL AND ABOLITION. -- This section is repealed and the board is abolished June 30, 2011, unless reviewed and saved from repeal by the Legislature.
 - Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #:

HB 619

Florida Substance Abuse and Mental Health Corporation

SPONSOR(S): Gibson and others TIED BILLS:

None.

IDEN./SIM. BILLS: SB 1286

REFERENCE	ACTION	ANALYST STAFF DIRECTOR
1) Future of Florida's Families Committee		Davis Collins C
2) Health Care Appropriations Committee		
3) Health & Families Council		
4)		
5)		

SUMMARY ANALYSIS

House Bill 619 amends existing statutory provisions relating to the Florida Substance Abuse and Mental Health Corporation (Corporation). Specifically, the bill adds two additional responsibilities for the Corporation to exercise and it changes the sunset date from October 1, 2006, to October 1, 2011.

The first additional responsibility calls for the Corporation to review and assess the status of the recovery and resiliency-based system for comprehensive mental health care.

The second additional responsibility calls for the Corporation to review and assess the activities relating to the transformation of the substance abuse and mental health system to ensure that a recovery and resiliencybased system of care is maintained.

According to a March 2005, Office of Program Policy Analysis & Government Accountability (OPPAGA) report, the Corporation has not worked closely with other state agencies involved with the substance abuse and mental health systems to address its eight statutory responsibilities. The Corporation is scheduled to sunset on October 1, 2006, unless reenacted by the Legislature. According to the OPPAGA report, the Corporation's work during 2004 shows useful beginning steps, however, it will be difficult to justify its continued existence unless it more fully addresses its statutory responsibilities. OPPAGA is expected to release a follow up to this report by March 1, 2006.

The bill does have a fiscal impact. For the last two years, the Corporation has been funded at \$270,000 annually through proviso in the Department of Children and Families appropriation. Half of this funding comes from the Substance Abuse Program Office and the other half from the Mental Health Program Office. The Corporation is requesting the same amount of money for FY 2006-2007 with an additional \$100,000 in matching federal Medicaid dollars.

This act shall take effect upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill increases the responsibilities of the Florida Mental Health and Substance Abuse Corporation (Corporation).

B. EFFECT OF PROPOSED CHANGES:

Effect of Proposed Changes

House Bill 619 amends existing statutory provisions relating to the Florida Substance Abuse and Mental Health Corporation (Corporation). Specifically, the bill adds two additional responsibilities for the corporation to exercise and it changes the sunset date from October 1, 2006, to October 1, 2011.

The first additional responsibility calls for the Corporation to review and assess the status of the recovery and resiliency-based system for comprehensive mental health care.

The second additional responsibility calls for the Corporation to review and assess the activities relating to the transformation of the substance abuse and mental health system to ensure that a recovery and resiliency-based system of care is maintained.

The Corporation is directed in the two new mandates to monitor the process of reform measures and to hold entities accountable to reform actions they have committed to taking. The Corporation already heads a task force comprised of state agencies, consumers, families, providers, local government and advocacy organizations to provide leadership and direction to the transformation initiative.

The Corporation gave priority to the concept of transforming the mental health system. It took the lead in, and worked hand in hand with, state agency management to ensure the mental health system in Florida is transformed from a preferred-provider system to a consumer driven system embracing prevention, resiliency, and recovery for children, adults and families. According to the Corporation, this transformation must ensure that services are directed to the needs and goals of reintegrating consumers into the community where they can successfully live, work, go to school, and enjoy life.

Background

The Corporation, which is administratively housed within the Department of Children and Families, has two employees, an executive director and an administrative assistant. The Corporation is governed by a 12-member board of directors appointed by the Governor, the Speaker of the House, and the President of the Senate.

The idea of an independent entity to provide leadership and oversight for the publicly funded mental health and substance abuse systems came out of the Governor's 1999 Commission on Mental Health and Substance Abuse. The Commission recommended a coordinating council, which would include secretaries from relevant agencies and key constituency groups as its members. The Commission recommended that the coordinating council be responsible for information collection, accountability management, public education, and policy development. These are the essential core responsibilities of the current Florida Substance Abuse and Mental Health Corporation (Corporation).

During the 2003 Legislature, many mental health and substance abuse stakeholders were advocating for the substance abuse and mental health program offices to be placed in the Department of Health or made into separate state agency (as was done with developmental disabilities). The creation of the Corporation as well as the creation of an Assistant Secretary position for substance abuse and mental

PAGE: 2

health in the Department of Children and Families were codified as answers to the desire for a separate state agency and higher visibility for substance abuse and mental health issues.

The 2003 Legislature created the Substance Abuse and Mental Health Corporation to oversee the state's publicly funded substance abuse and mental health systems and make policy and resource recommendations to improve the coordination, quality, and efficiency of the systems. The Corporation is a not-for-profit organization independent of state government and is to annually evaluate and report on the status of the state's substance abuse and mental health systems.

The Corporation has the following eight statutory responsibilities:

- 1. Provide mechanisms for substance abuse and mental health stakeholders, including consumers, family members, providers, and advocates to provide input concerning the management of the overall system.
- 2. Review and assess the collection and analysis of needs assessment data as described in s. 394.82, Florida Statutes.
- Review and assess the status of the publicly funded mental health and substance abuse systems and recommend policy designed to improve coordination and effectiveness.
- 4. Make recommendations concerning strategies for improving the performance of the systems.
- 5. Review data regarding the performance of the publicly funded substance abuse and mental health systems.
- 6. Recommend priorities for service expansion.
- 7. Prepare budget recommendations to be submitted to the appropriate departments for consideration in the development of their legislative budget requests and provide copies to the Governor, President of the Senate, and Speaker of the House for their consideration.
- 8. Review, assess, and forecast substance abuse and mental health manpower needs and work with the department and the educational system to establish policies, consistent with the direction of the Legislature, which will ensure that the state has the personnel it needs to continuously implement and improve its services.

The 2004 Legislature directed the Corporation in its first report to provide a specific analysis of managed care behavioral health care contracts, and the impact of these contracts on the mental health service delivery system in Florida. The Corporation completed its report and provided that report to the Agency for Health Care Administration, the Governor and the Legislature.

HB 619 adds two additional mandates to the eight mandates the Corporation already has. These two new mandates relate to the initiative being commenced in Florida to reform the mental health and substance abuse systems.

This year, the Corporation participated in drafting the application for a federal Mental Health Transformation Grant and was designated by Governor Bush to be the lead entity to administer the grant. Florida was not successful in this grant award cycle.

The grant would have required changes in provider contracts, rules and regulations, training and education and amendments to Chapter 394, F.S., to articulate public policy emphasizing recovery and resiliency in the community and person centered services. The grant also emphasized that Florida must include consumers, families and youth as part of the service delivery teams and treatment

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planning teams, while utilizing a "strengths model" that focuses on a person's worth and strengths; and increase the use of peer and family support workers.

The grant articulated the need for uniform outcome measures to be developed across state government agencies such as competitive employment, independent living, days in school, graduation from high school, days in the community, reduction in contact with law enforcement, reduction in hospitalizations, and reduction in out of home placements.

One of the major reforms envisioned in the grant was transforming the mental health crisis and emergency response service system to a system in which mobile outreach and immediate crisis response teams where readily available. According to the grant, Florida should reduce the use of state hospital beds and crisis stabilization beds and divert persons with mental illness from the criminal justice system. At the same time, Florida should develop specialized substance abuse and mental health aftercare services for juvenile and adult offenders, and individualize services so that people can resolve crises using minimally intrusive and maximally effective options.

The Corporation is recommending that Governor Bush again apply for a transformation grant when there is another grant cycle. The Corporation would again offer to be the lead entity in administering the grant.

The sunset date in HB 619 is the date of the last year of the grant if Florida is successful in being awarded a transformation grant.

Research

In March of 2005, OPPAGA released a report studying the Corporation. OPPAGA found that the Corporation's annual report included many related recommendations pertaining to access to care, quality of care, administration, and financial requirements. However, the Corporation did not work closely with other state agencies that are part of the substance abuse and mental health systems to improve the coordination, quality, and efficiency of the systems. Of its eight designated responsibilities, the Corporation fully addressed one by providing a forum for stakeholder involvement. It partially met three by reviewing needs assessment data and making policy and strategy recommendations to improve the performance of the systems. It made little progress in four areas: the Corporation did not address prioritizing recommendations for service expansion; agency budget recommendations; reviewing agency performance data; and forecasting staffing needs for DCF. According to OPPAGA, the Corporation's work during 2004 evinces useful beginning steps, unless the Corporation demonstrates value to the state by more fully addressing its statutory responsibilities during 2005, it will be difficult to justify its continued existence. OPPAGA is expected to release it's follow up report on the Corporation by March 1, 2006.

The Substance Abuse and Mental Health Corporation provided a written response to the 2005 OPPAGA report. In summary, the Corporation disagreed with the report's conclusion that the Corporation has not addressed fully its statutory responsibilities and stated that its mission was redirected by a stipulation in the General Appropriations Act for Fiscal Year 2004-05 to look at the transition of Medicaid funded behavioral health care services from fee-for-service to managed care. However, based on OPPAGA's analysis of the legislation and discussions with legislative staff, the analysis of managed care contracts was to be in addition to, not in lieu of, the Corporation's responsibility to improve the coordination, quality, and efficiency of the substance abuse and mental health systems across state agencies.

C. SECTION DIRECTORY:

Section 1: Amends s. 394.655 (3)(a), F.S., adding responsibilities to the Corporation and changing the sunset provision.

STORAGE NAME: DATE:

h0619.FFF.doc

Section 2: Provides an effective date upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Corporation provided the following:

For the last two years, the Corporation has been funded at \$270,000 annually through proviso in the DCF appropriation -- half funded from the Substance Abuse Program Office and the other half from the Mental Health Program Office. The Corporation is requesting the same amount for FY 2006-2007 with an additional \$100,000 in matching federal Medicaid dollars. A memorandum of agreement has already been developed between DCF and AHCA to allow for the GR dollars to match \$100,000 in federal Medicaid dollars. Medicaid allows for some administrative costs for billing.

The appropriation covers two staff positions, the website, office supplies and equipment, publications, staff and board travel.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

PAGE: 5

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Corporation has sufficient rulemaking authority in existing law to carry out its current functions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

2006 HB 619

A bill to be entitled

An act relating to the Florida Substance Abuse and Mental Health Corporation; amending s. 394.655, F.S.; requiring that the corporation review and assess the recovery and resiliency-based system for mental health care; requiring that the corporation review and assess the activities relating to the transformation of the substance abuse and mental health system; revising the expiration date of the corporation; providing an effective date.

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Be It Enacted by the Legislature of the State of Florida:

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Section 1. Paragraph (a) of subsection (3) and subsection (11) of section 394.655, Florida Statutes, are amended to read:

16 17

394.655 The Substance Abuse and Mental Health Corporation; powers and duties; composition; evaluation and reporting requirements. --

- The Florida Substance Abuse and Mental Health (3)(a) Corporation shall be responsible for oversight of the publicly funded substance abuse and mental health systems and for making policy and resources recommendations which will improve the coordination, quality, and efficiency of the system. Subject to and consistent with direction set by the Legislature, the corporation shall exercise the following responsibilities:
- 1. Review and assess the status of the recovery and resiliency-based system for comprehensive mental health care.
- 2. Review and assess the activities relating to the transformation of the substance abuse and mental health system

Page 1 of 3

HB 619 2006

to ensure that a recovery and resiliency-based system of care is maintained.

3.1. Review and assess the collection and analysis of needs assessment data as described in s. 394.82.

- 4.2. Review and assess the status of the publicly funded mental health and substance abuse systems and recommend policy designed to improve coordination and effectiveness.
- 5.3. Provide mechanisms for substance abuse and mental health stakeholders, including consumers, family members, providers, and advocates to provide input concerning the management of the overall system.
 - 6.4. Recommend priorities for service expansion.
- 7.5. Prepare budget recommendations to be submitted to the appropriate departments for consideration in the development of their legislative budget requests and provide copies to the Governor, the President of the Senate, and the Speaker of the House of Representatives for their consideration.
- 8.6. Review data regarding the performance of the publicly funded substance abuse and mental health systems.
- 9.7. Make recommendations concerning strategies for improving the performance of the systems.
- 10.8. Review, assess, and forecast substance abuse and mental health manpower needs and work with the department and the educational system to establish policies, consistent with the direction of the Legislature, which will ensure that the state has the personnel it needs to continuously implement and improve its services.
 - (11) This section expires on October 1, 2011 2006, unless

Page 2 of 3

2006 HB 619

reviewed and reenacted by the Legislature before that date. 58

Section 2. This act shall take effect upon becoming a law.

Page 3 of 3

CODING: Words stricken are deletions; words <u>underlined</u> are additions.



Department of Children and Families Oversight of Community-Based Care Lead Agencies

February 22, 2006

LeNée Carroll, Legislative Policy Analyst, OPPAGA

Florida Office of Program Policy Analysis & Government Accountability



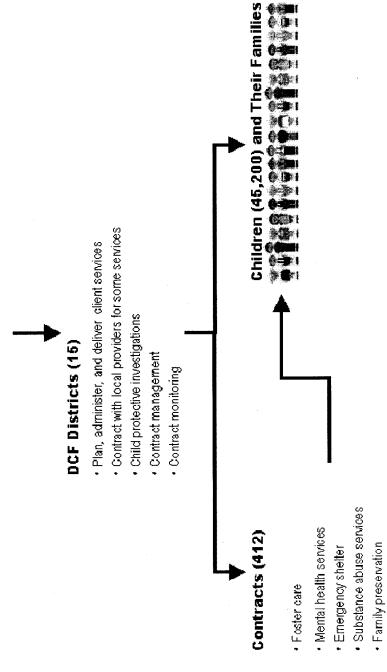
Purpose of Review

- 2005 Legislature directed OPPAGA and the Auditor General to review
- agencies accountable and monitor their ongoing • the processes the department uses to hold lead viability, and
- the performance of the CBC system compared to the department's performance

DCF Structure Prior to CBC

Florida Department of Children and Families (DCF)

- · Family Safety Program planning and policy development
 - · Child Welfare Legal Services



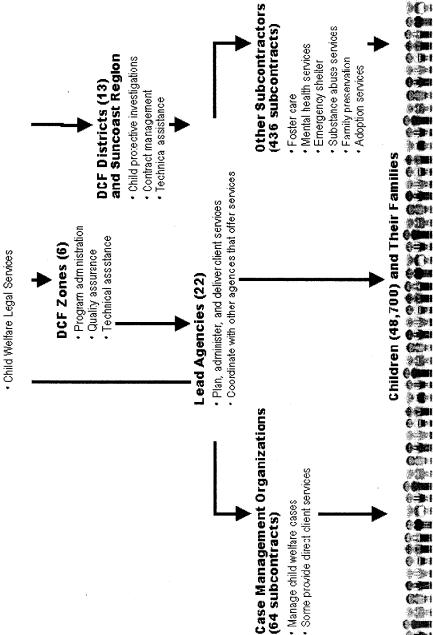
Florida Office of Program Policy Analysis & Government Accountability

Adoption services

Current Structure Has More Layers **Between DCF and Service Delivery**

Florida Department of Children and Families (DCF)

 Family Safety Program oversight iincluding contrac: monitoring) and policy devolopment



Florida Office of Program Policy Analysis & Government Accountability

Overall Report Conclusions

- oversight of lead agencies concluded Our January 2006 report on DCF that
- DCF is making changes to address weaknesses in oversight system
- Changes are positive, but challenges still need to be addressed

g

Many Lead Agencies Not Effectively Monitoring Subcontractors

- contract monitoring during Fiscal Year ■ 17 of 19 eligible lead agencies received 2004-05
- 12 of 17 lead agencies had not adequately monitored subcontractors
- implemented their quality assurance plans 6 of 17 lead agencies had not fully

Many Lead Agencies Not Complying With Contract Requirements

Department Monitoring Reports for Fiscal Years 2003-04 and 2004-05 Frequently Have Cited a Variety of Critical Lead Agency Violations

	Nur	Number of Violations Cited	ations Cite	þ
	FY 2003-04	03-04	FY 2004-05	04-05
Area of Noncompliance	(Lead Agencies Monitored - 8)	Lead Agencies Monitored - 8)	(Lead Agencies Monitored - 17)	Lead Agencies Monitored - 17)
Not adequately monitoring subcontractors	72%	(2)	71% (12)	(12)
Missing or inaccurate time logs	%89	(2)	%59	(11)
A lack of internal control over financial operations	38%	(3)	23%	(6)
Invoices not timely or accurate	%92	(9)	47%	(8)
Not adequately conducting quality assurance reviews	25%	(2)	32%	(9)
Untimely foster care re-licensing	%09	(4)	78%	(2)
Untimely foster care licensing	13%	(1)	24%	(4)

More Punitive Enforcement Tools Department Not Using

Contracts with lead agencies authorize DCF to impose sanctions

- Less punitive include corrective action plans
- More punitive include assessing fines and terminating the contract
- Department has not often used its more punitive enforcement tools

6

Additional Enforcement Tools Department Needs

- Needs clear guidelines for imposing sanctions on lead agencies
- Needs data system to track compliance histories of lead agencies
- Should annually report to the Legislature on lead agencies' compliance trends

Additional Topics Evaluated

- Department quality assurance redesign
- Shifts quality assurance responsibility from DCF to lead agencies
- Recommendations
- Contract monitoring turnover and training needs

Questions?

Contacts

Nancy Dufoe, Chief Legislative Analyst 850-487-9242 dufoe.nancy@oppaga.fl.gov LeNée Carroll, Legislative Policy Analyst 850-488-9232 carroll.lenee@oppaga.fl.gov Florida Office of Program Policy Analysis & Government Accountability

Department Redesigned Quality Assurance

- Shifts quality assurance responsibility from DCF to lead agencies
- develop or obtain own data collection tools
- conduct reviews of services at least every 6 months
- Department review of lead agencies at least twice each three-year period
- Central office remains responsible for preparing the state for federal reviews

Quality Assurance Redesign Lacks Key Elements

- Clearly outline roles and responsibilities
- Provide additional guidance on criteria used to determine adequacy of quality assurance plans
- Train lead agency and department staff

Lacks Key Elements (continued) Quality Assurance Redesign

- monitoring efforts of lead agencies Oversee initial quality assurance
- Maintain capacity to provide quality assurance monitoring
- and provide a report to the Legislature Estimate fiscal impact of the redesign

Lack of Sufficient Contract Monitoring Expertise

- Department improving training for contract managers, but lacks a training program for contract monitors
- Contract monitoring reorganizations adversely affected staff expertise
- Not all lead agencies monitored in a timely manner
- 17 of 19 eligible lead agencies received contract monitoring
- The department took approximately 4 months to release reports compared to 1 month previously



Program Performance Pre- and Comparison of Child Welfare Post-Community-Based Care

House Future of Florida's Families Committee

February 22, 2006

Jennifer Whipple, Ph.D., Legislative Policy Analyst, OPPAGA

Florida Legislature Office of Program Policy Analysis & Government Accountability

Evaluation Periods

■ Fiscal Year 1998-99

- Last year before transition to Community-Based Care
- Examined performance at statewide and district levels

■ Fiscal Year 2004-05

- First year fully transitioned to Community-Based Care
- Examined performance at statewide, district, and lead agency levels

Evaluation Questions

- Have program outcomes improved?
- Are case managers better off?
- Has the availability of foster homes and beds changed?

Performance Factors: Outcome Measures

Safety

Recurrence of abuse

Safety and Permanency

Re-entry into system

Permanency

- Placement stability in out-of-home care
- Length of stay in out-of-home care
- Length of time to reunification • Finalized adoptions

Performance Factors: Case Managers

Case manager

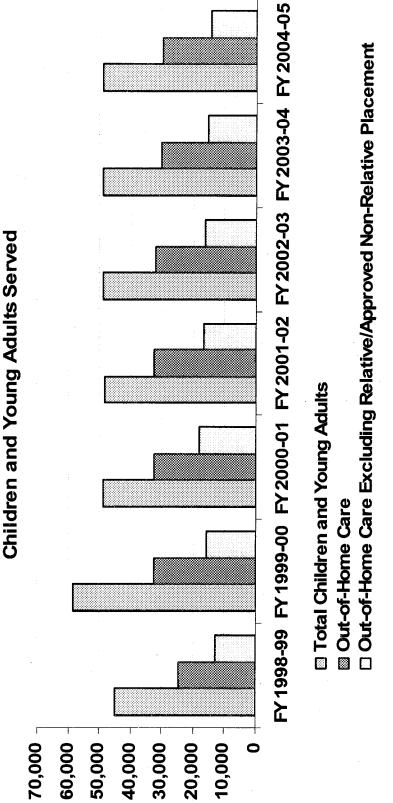
- Salaries
- Vacancy rates
- Turnover rates

Average caseloads

Performance Factors: Foster Care

- Number of foster homes and beds
- **■** Foster home utilization

Trends in Number Served



Source: OPPAGA analysis of Department of Children and Families data.

Florida Legislature Office of Program Policy Analysis & Government Accountability

Have Program Outcomes Improved?

Improved

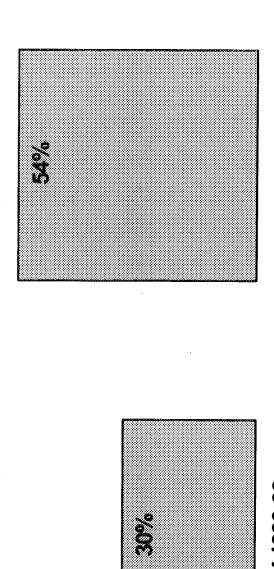
- More children exiting out-of-home care within 12 months
- More children reunified within 12 months
- More adoptions finalized

Not Improved

- More children experiencing recurrence of abuse
- Higher placement instability
- High rate of re-entry into out-of-home care

Out-of-Home Care Within 12 Months More Children Exiting

Percentage of Children Exiting Out-of-Home Care Within 12 Months of Removal



FY 1999-00

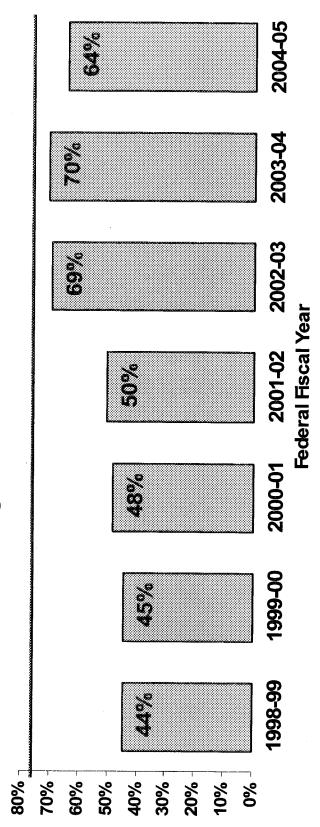
FY 2004-05

Source: OPPAGA analysis of Department of Children and Families data.

Florida Legislature Office of Program Policy Analysis & Government Accountability

More Children Reunified Within 12 Months

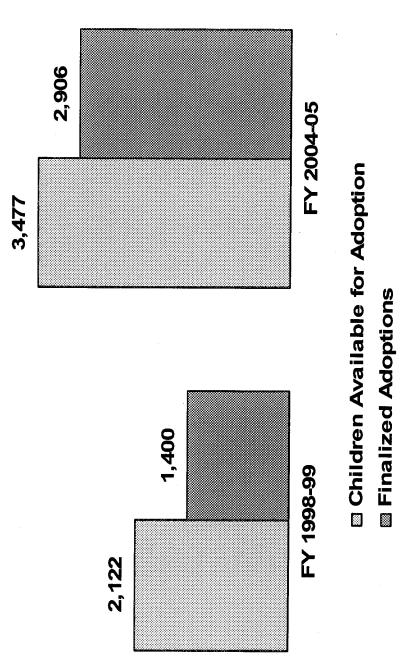
Of Those Children Reunified, Percentage Reunified Within 12 Months



Source: OPPAGA analysis of Department of Children and Families data.

Florida Legislature Office of Program Policy Analysis & Government Accountability

More Adoptions Finalized



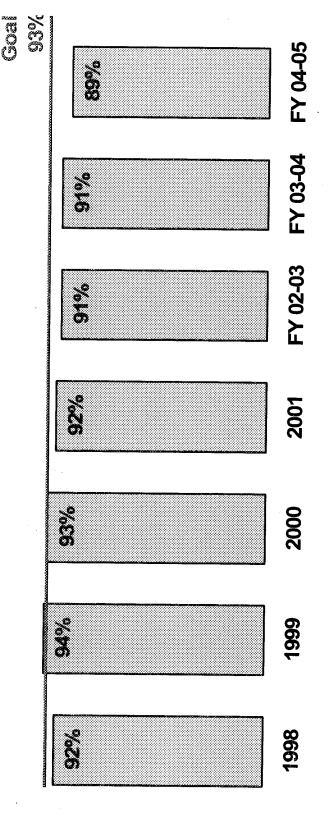
Source: OPPAGA analysis of Department of Children and Families data.

Florida Legislature Office of Program Policy Analysis & Government Accountability

More Children Experiencing Recurrence of Abuse

Percentage of Children Without Recurrence of Abuse Within 6 Months of Previous Report

Statewide

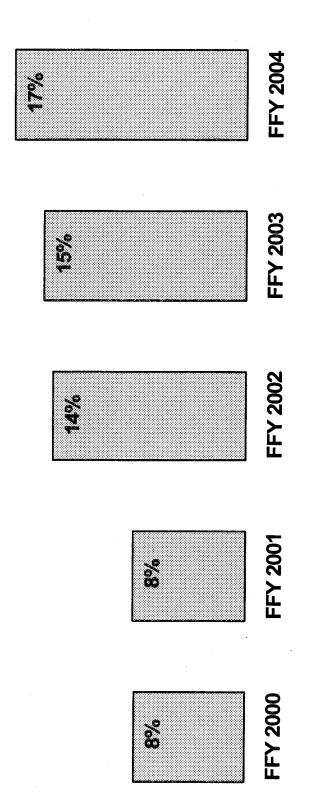


Source: OPPAGA analysis of Department of Children and Families data.

Florida Legislature Office of Program Policy Analysis & Government Accountability

Higher Placement Instability

Percentage of Children with Three or More Placements in Less than 12 Months

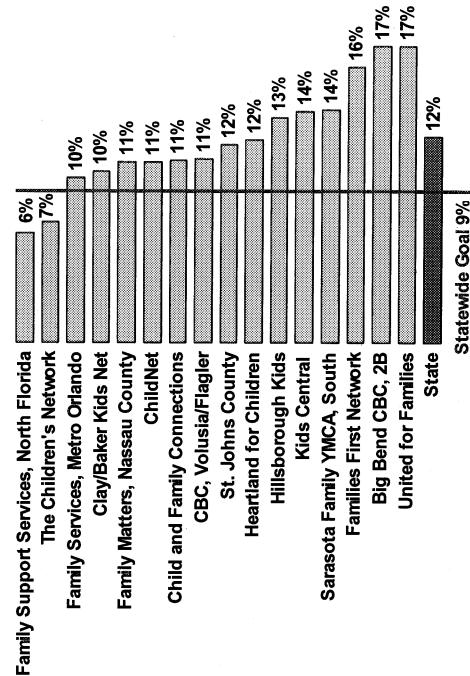


Source: OPPAGA analysis of Department of Children and Families data.

Florida Legislature Office of Program Policy Analysis & Government Accountability

High Rate of Re-Entry into Out-of-Home Care

Percentage Reentering Out-Of-Home Care Within 12 Months Of All Children Reunified During Fiscal Year 2003-04,



Source: Department of Children and Families.

Florida Legislature Office of Program Policy Analysis & Government Accountability

Are Case Managers Better Off?

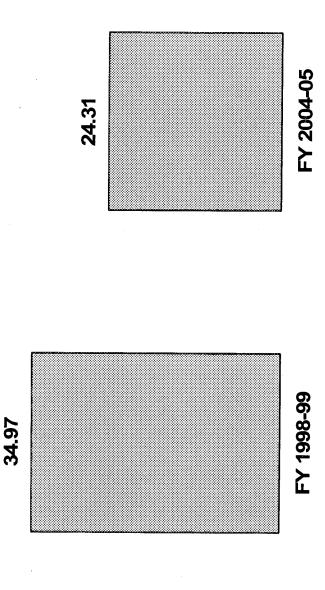
Improved

Not Improved

- Lower caseloads
- Lower starting salaries
- Lower vacancy rates
- Slightly higher turnover rates

Lower Caseloads

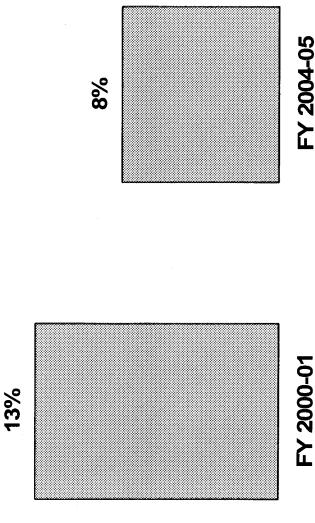
Average Annual Caseloads



Source: OPPAGA analysis of Department of Children and Families, Lead Agencies, and Case Management Organizations data.

Lower Vacancy Rates

Vacancy Rates for Counselor Positions



FY 2004-05

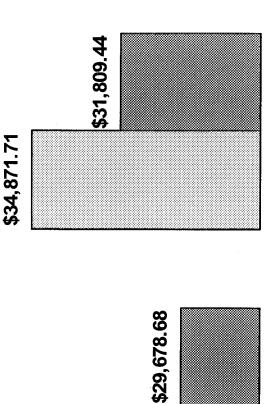
Source: OPPAGA analysis of Department of Children and Families, Lead Agencies, and Case Management Organizations data.

Lower Case Manager Starting Salaries

Counselor Starting Salaries

- Department
- Lead Agency Average

\$32,758.32



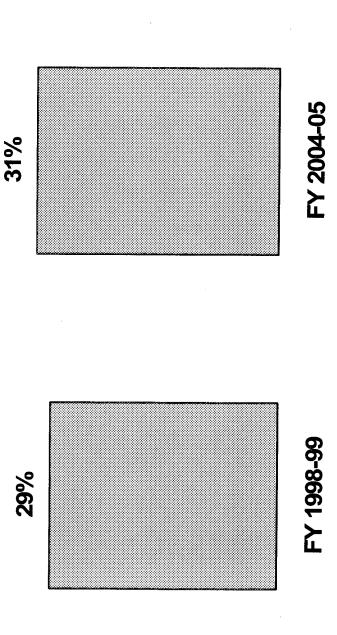
Non-Certified

Certified

Source: OPPAGA analysis of Department of Children and Families, Lead Agencies, and Case Management Organizations data. Florida Legislature Office of Program Policy Analysis & Government Accountability

Slightly Higher Turnover Rates

Turnover Rates for Counselor Positions



Source: OPPAGA analysis of Department of Children and Families, Lead Agencies, and Case Management Organizations data.

Has the Availability of Foster Homes and Beds Changed?

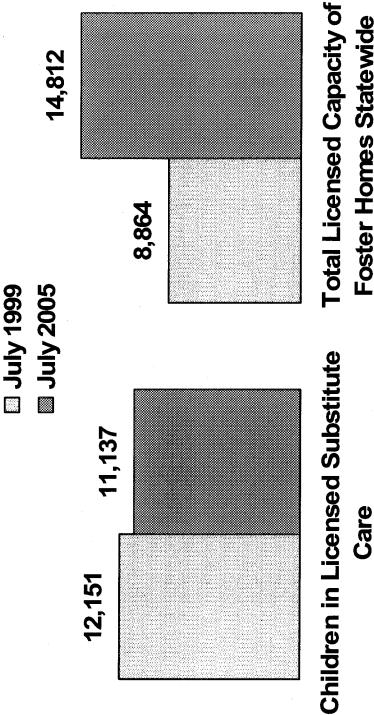
Improved

Progress Unclear

- Higher foster home capacity
- More homes under capacity
- Fewer homes over capacity

Higher Foster Home Capacity





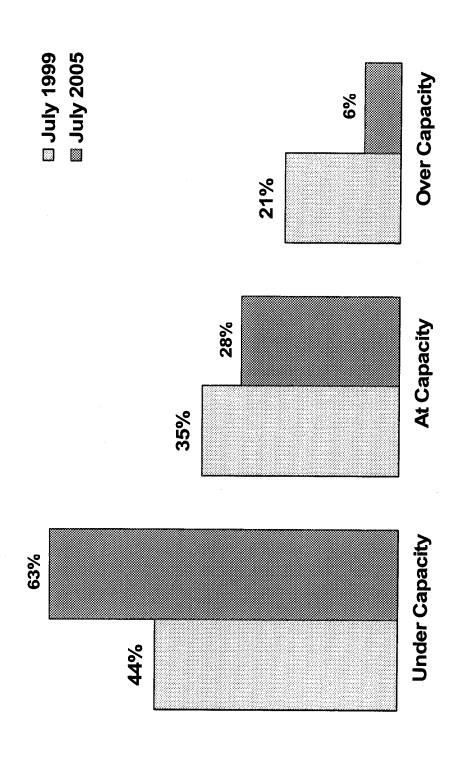
Foster Homes Statewide

Source: OPPAGA analysis of Department of Children and Families data.

Florida Legislature Office of Program Policy Analysis & Government Accountability

Foster Home Utilization Mixed

Percentage of Foster Homes Under, At, and Over Capacity



Source: OPPAGA analysis of Department of Children and Families data.

Florida Legislature Office of Program Policy Analysis & Government Accountability

Contacts

Becky Vickers, Staff Director 850-487-1316 vickers.becky@oppaga.fl.gov Jennifer Whipple, Ph.D., Legislative Policy Analyst whipple.jennifer@oppaga.fl.gov 850-922-6606



Office of Program Policy Analysis & Government Accountability

Comparison of
Child Welfare Program Performance Pre- and
Post-Community-Based Care: Supplemental
Information
by Lead Agency

February 22, 2006

Jennifer Whipple, Ph.D.
Legislative Policy Analyst
Office of Program Policy Analysis
and Government Accountability

Number of Children and Young Adults Served During Fiscal Year 2004-05

	
Family Matters, Nassau County	1 186
St. Johns County	299
Clay/Baker Kids Net	496
CBC, Seminole	574
Big Bend CBC, 2B	954
Sarasota Family YMCA, South	1,072
Big Bend CBC, 2A	1,228
CBC, Volusia/Ragler Counties	1,499
The Children's Network	1,569
Partnership for Strong Families	1,688
Child and Family Connections	1,778
United for Families	1,974
Families First Network	2,746
Family Support Services, North Florida	2,921
Heartland for Children	3,191
Family Services, Metro-Orlando	3,208
ChildNet	3,269
Sarasota Family YMCA, North	4,083
Kids Central	4,215
	4,885

Note: Does not include lead agencies in their first services contract year. Source: Department of Children and Families

Of Those Children Reunified During Fiscal Year 2004-05, Percentage Reunified Within 12 Months

Lead Agency ¹	Percentage of Children Reunified
CBC, Volusia/Flagler Counties	38%
Child and Family Connections	46%
Hillsborough Kids	47%
Sarasota Family YMCA, North	54%
The Children's Network	56%
Family Support Services, North Florida	59%
Heartland for Children	60%
Big Bend CBC, 2B	63%
Family Services, Metro-Orlando	63%
ChildNet	64%
United for Families	67%
CBC, Seminole	68%
Partnership for Strong Families	70%
Sarasota Family YMCA, South	72%
Families First Network	73%
Family Matters, Nassau County	75%
Clay/Baker Kids Net	76%
St. Johns County	77%
Kids Central	78%
Statewide Average	63%

¹ Does not include lead agencies in their first services contract year. Source: OPPAGA analysis of Department of Children and Families data.

Percentage of Children with Three or More Foster Home Placements in Less Than 12 Months During Fiscal Year 2004-05

	Percentage of Children with	
Lead Agency	Three or More Placements	
Family Support Services, North Florida	7%	
Clay/Baker Kids Net	9%	
Hillsborough Kids	10%	
Child and Family Connections	12%	
Family Matters, Nassau County	14%	
St. Johns County	14%	
Big Bend CBC, 2B	17%	
Kids Central	17%	
The Children's Network	18%	
Heartland for Children	18%	
CBC, Volusia/Flagler Counties	19%	
United for Families	20%	
Sarasota Family YMCA, South	20%	
Family Services, Metro-Orlando	21%	
Families First Network	22%	
CBC, Seminole	22%	
Partnership for Strong Families	22%	
ChildNet	27%	
Sarasota Family YMCA, North	31%	
Statewide Average	18%	

¹ Does not include lead agencies in their first services contract year. Source: OPPAGA analysis of Department of Children and Families data.

Of All Children Reunified During Fiscal Year 2003-04, Percentage Re-Entering Out-of-Home Care Within 12 Months

Lead Agency ¹	Percentage of Children Re-Entering Out-of-Home Care
Family Support Services, North Florida	6%
The Children's Network	7%
Family Services, Metro Orlando	10%
Clay/Baker Kids Net	10%
Family Matters, Nassau County	11%
ChildNet	11%
Child and Family Connections	11%
CBC, Volusia/Flagler	11%
St. Johns County	12%
Heartland for Children	12%
Hillsborough Kids	13%
Kids Central	14%
Sarasota Family YMCA, South	14%
Families First Network	16%
Big Bend CBC, 2B	17%
United for Families	17%
Statewide Average	12%

¹ Does not include lead agencies in their first services contract year. Source: OPPAGA analysis of Department of Children and Families data.

Annual Average Caseloads for Fiscal Year 2004-05

	Average
Lead Agency ¹	Caseload
Sarasota Family YMCA, Inc. (South)	16
Community Based Care of Seminole, Inc.	16
Child and Family Connections, Inc.	18
Family Services of Metro-Orlando, Inc.	19
ChildNet, Inc.	21
Hillsborough Kids, Inc.	21
St. Johns County Board of County	22
Family Support Services of North Florida, Inc.	23
Families First Network	24
The Children's Network	24
Big Bend Community Based Care (2B)	24
Clay and Baker Kids Net, Inc.	24
Sarasota Family YMCA, Inc. (North)	27
Heartland for Children	27
Big Bend Community Based Care (2A)	28
Community Based Care of Volusia and Flagler	28
Kids Central, Inc.	28
Partnership for Strong Families	28
Family Matters of Nassau County	32
United for Families, Inc.	38
Statewide Average	24

Vacancy Rates for Counselor Positions for Fiscal Year 2004-05

	Quarterly
Lead Agency ¹	Average
Big Bend CBC, 2A	0%
St. Johns County	0%
ChildNet	0%
Family Services, Metro-Orlando	4%
CBC, Seminole	4%
The Children's Network	5%
Child and Family Connections	5%
Hillsborough Kids	6%
Clay/Baker Kids Net	6%
Sarasota Family YMCA (North)	7%
Families First Network	7%
Big Bend CBC, 2B	8%
Kids Central	9%
Family Support Services, North Florida	11%
Sarasota Family YMCA (South)	11%
Heartland for Children	13%
United for Families	14%
CBC, Volusia/Flagler	14%
Family Matters, Nassau County	21%
Partnership for Strong Families	22%
Statewide Average	8%

Tumover Rates for Counselor Positions for Fiscal Year 2004-05

	Annual
Lead Agency ¹	Turnover
Sarasota Family YMCA (North)	6%
St. Johns County	7%
Sarasota Family YMCA (South)	12%
ChildNet	12%
Kids Central	20%
Families First Network	23%
The Children's Network	25%
Child and Family Connections	27%
Family Support Services, North Florida	32%
CBC, Volusia/Flagler	33%
Family Matters, Nassau County	33%
Family Services, Metro-Orlando	34%
Clay/Baker Kids Net	37%
Hillsborough Kids	51%
Heartland for Children	54%
United for Families	56%
Big Bend CBC, 2B	63%
Statewide Average	31%

¹ Does not include lead agencies in their first services contract year.

Source: Department of Children and Families, Lead Agencies, and Case Management Organizations data.

Lead Agency Starting Salaries as of December 2005

Lead Agency ¹	Non-Certified Counselors
Families First Network	(Case Managers)
and the substitute of the first of the substitute of the substitut	\$26,302
Sarasota Family YMCA (North)	\$27,000
Sarasota Family YMCA (South)	\$27,000
CBC, Volusia/Flagler	\$28,000
Hillsborough Kids	\$28,624
CBC, Seminole	\$29,000
Our Kids. Miami-Dade/Monroe	\$29,000
Big Bend CBC, 2B	\$29,024
Family Support Services, North Florida	\$29,344
Heartland for Children	\$29,810
Partnership for Strong Families	\$29,925
United for Families	\$30,000
Big Bend CBC, 2A	\$30,033
The Children's Network	\$30,375
St. Johns County	\$30,805
CBC, Brevard	\$30,810
Kids Central	\$30,909
Clay/Baker Kids Net	\$31,000
Family Services, Metro-Orlando	\$31,372
Child and Family Connections	\$31,490
Family Matters, Nassau County	\$31,507
ChildNet	\$31,600
Statewide Average	\$29,679

	Certified Counselors
Lead Agency	(Case Managers)
Sarasota Family YMCA (North)	\$28,000
Sarasota Family YMCA (South)	\$28,000
Families First Network	\$28,282
Hillsborough Kids	\$30,113
Clay/Baker Kids Net	\$31,000
Family Support Services, North Florida	\$31,338
Family Matters, Nassau County	\$31,507
Big Bend CBC, 2B	\$31,707
CBC, Seminole	\$31,900
Partnership for Strong Families	\$31,969
Our Kids, Miami-Dade/Monroe	\$32,000
Kids Central	\$32,040
Family Services, Metro-Orlando, Inc.	\$32,272
Heartland for Children	\$32,311
Big Bend CBC, 2A	\$32,407
St. Johns County	\$32,691
CBC, Brevard	\$33,060
CBC, Volusia/Flagler	\$33,500
The Children's Network	\$33,638
Child and Family Connections	\$33,761
ChildNet	\$34,000
United for Families	\$34,313
Statewide Average	\$31,809

 $^{^{\}rm 1}{\rm Does}$ not include lead agencies in their first services contract year.

 $Source: \ Department \ of \ Children \ and \ Families, \ Lead \ Agencies, \ and \ Case \ Management \ Organizations \ data.$



January 2006

Report No. 06-05

Additional Improvements Are Needed as DCF Redesigns Its Lead Agency Oversight Systems

at a glance

To address problems in its system for monitoring child welfare lead agencies, the department is proposing to redesign many of its oversight processes. While some of these changes are promising, additional steps will be needed to resolve critical weaknesses in the department's oversight of community-based lead agencies and the subcontractors that provide direct child protective services. Specifically, the department needs to

- establish a strong training program for its contract monitoring staff:
- successfully implement the long-delayed HomeSafenet information system and a lead agency viability monitoring system;
- develop additional ways to ensure that lead agencies comply with contract provisions;
- develop a certification process to ensure that lead agencies are willing and have the capability to assume additional quality assurance responsibilities; and
- provide additional written guidance and training to department zone and lead agency quality assurance staff to assist with the planned transfer of additional quality assurance responsibilities to lead agencies.

Scope-

The 2005 Legislature directed OPPAGA and the Auditor General to review the status of the transition to community-based care, including the processes the Department of Children and Families uses to hold community-based care lead agencies accountable and monitor their ongoing viability. ¹

Background -

The 1998 Legislature directed the Department of Children and Families to contract with community-based lead agencies to provide child protective services including family preservation, emergency shelter, foster care, and adoption services. ² Under community-based care, the Legislature has shifted the department's role from primary provider of services to purchaser of services.

The transition to community-based care is complete. As of April 2005, the department had entered into 22 services contracts with 20 lead agencies that provide child protective services in the state's 67 counties (see Appendix A). The lead agencies in turn generally subcontract with a wide

¹ An upcoming OPPAGA report will evaluate the performance of the community-based care system in comparison to program performance when the Department of Children and Families provided these services.

² Lead agencies are private, community-based agencies or county governments responsible for planning, administering, and delivering client services; ensuring that services are delivered in accordance with state and federal laws; and coordinating with other local public or private agencies that offer services for clients.

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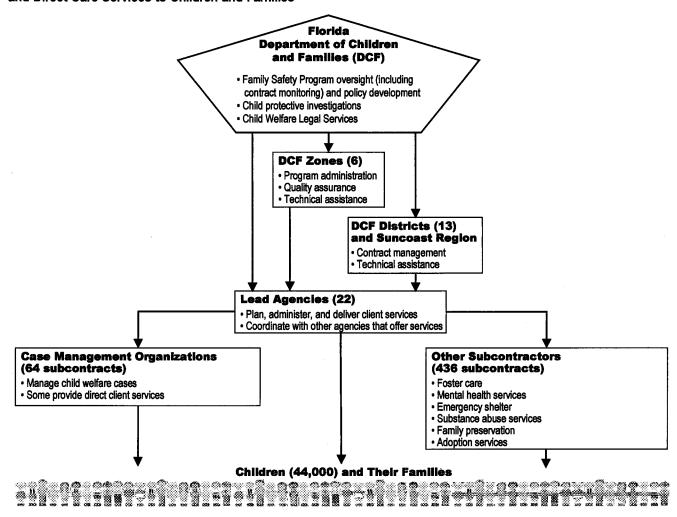
range of providers for direct care services including case management, foster care placement, and substance abuse and mental health services. As of December 2005, lead agencies had 500 subcontracts, including 64 subcontracts with case management organizations. ³

Exhibit 1 shows the highly decentralized and outsourced structure of Florida's current child welfare system. In such a system, it is essential for the department to have effective management and oversight processes to ensure that dependent children receive effective services and funds are appropriately used.

The department's current system for monitoring the lead agencies has three interrelated components:

- contract management,
- contract monitoring, and
- quality assurance reviews.

Exhibit 1
The Community-Based Care System Has Several Layers Between Department Administration and Direct Care Services to Children and Families



Source: OPPAGA analysis, Department of Children and Families, and lead agencies.

³ The number of lead agency subcontracts does not include rate agreements. Rate agreements are contracts that provide for a unit of service and a unit cost but do not specify the quantity to be purchased. Such contracts are typically for individualized services, yet may exceed \$1 million.

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Contract management provides day-to-day oversight of contract deliverables and invoices. These functions are performed by contract managers located in the department's 13 districts and one region. Contract managers report to the district administrator and are the primary contact for information transmitted between the department and the lead agencies. Contract managers also are responsible for evaluating lead agency performance. Due to this ongoing contact with providers, contract managers play a key role in detecting lead agency problems.

Contract monitoring provides an annual evaluation of lead agencies' compliance with contract requirements. This includes assessing whether lead agencies maintain appropriate accounting procedures and verifying that purchased services are provided. Contract monitoring employees also work with contract managers to determine whether lead agencies meet performance standards, provide the necessary child protective services appropriate staff, and correct deficiencies found during prior reviews. The department's contract monitoring units are located in seven areas: Tallahassee, Jacksonville, Orlando, Tampa, Fort Lauderdale, West Palm Beach, and Miami.

Quality assurance reviews provide the department and lead agencies with information about the quality of services being provided to children and their families. These reviews are intended to determine whether casework services are comprehensive and thorough. The reviews also determine if clients receive services that best meet their needs and if caseworkers' decisions are in the clients' best interests.

The department currently uses a three-tiered process for quality assurance in which the central office, zone offices, and lead agencies each have Tier 1 quality assurance is responsibilities. conducted by lead agencies, which are required to monitor their direct service units to assess direct service delivery. Tier 2 quality assurance is conducted by department zone employees, who are required to monitor lead agencies every six months through peer reviews of case files and stakeholder interviews. Tier 3 quality assurance is conducted by the department's central office, which is responsible for validating district monitoring activities and identifying

practices, providing technical assistance, and reviewing compliance with federal requirements.

For Fiscal Year 2005-06, the Legislature appropriated \$864 million of which 51% is from federal funds and 49% is from state funds (primarily general revenue). department's contracts with lead agencies total approximately \$625.4 million. The department retains the remainder of the appropriation for program-related functions such as child protective investigations and child welfare legal services. The department also provides policy development and program oversight with a separate management budget. Lead agencies served approximately 44,000 children as of June 30, 2005.

Findings -

Although the Department of Children and Families no longer directly provides child protective services to dependent youth, the state retains custody of these children and remains responsible for the services they are provided. Accordingly, it is critical that the department have an effective system to monitor the community-based providers that are serving these children.

Even though the transition to community-based care has been underway for seven years, the department continues to lack sufficient processes and systems to effectively oversee community-based care system. The department is working on plans to address these deficiencies by providing additional training and technical assistance to its contract managers, outsourcing fiscal monitoring, and redesigning its quality assurance processes. However, additional steps will be needed to address critical weaknesses in oversight system for lead agencies. Specifically, the department needs to

- strengthen training for its contract monitoring staff, who have experienced high turnover;
- resolve longstanding delays in implementing its HomeSafenet information system;
- develop an effective system to monitor the ongoing viability of lead agencies;
- ensure that staff perform contract monitoring of all lead agencies in a timely manner;

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 ensure that lead agencies adequately monitor and conduct quality assurance reviews of their subcontractors;

- develop additional means to address lead agency failure to abide by contract requirements;
- better define the tasks that its outsourced fiscal monitors are to perform when reviewing lead agencies; and
- ensure that the lead agencies are willing and have the capability to fulfill additional quality assurance responsibilities.

Until these weaknesses are resolved, the department will be hindered in its ability to ensure that community-based care contractors are providing effective and efficient services for Florida's dependent children.

Although the department is improving training for contract managers, it needs to strengthen training for contract monitors

Contract monitoring is an essential component of the department's oversight of lead agencies and requires staff to have a high level of skills and expertise. Contract monitors have a key role in overseeing lead agency performance and identifying areas of noncompliance and related problems. Contract monitors need to have expertise in the design and operation of the community-based care system, as well as the state and federal program requirements governing the system. Developing and maintaining this staff expertise has been complicated by repeated reorganizations and substantial staff turnover. The department is taking steps to improve training opportunities and develop technical assistance for its contract managers, but needs to do so for its contract monitoring staff as well.

The department needs to develop a strong training program for contract monitoring staff. The expertise level of the department's monitoring staff has been affected adversely by reorganizations of this function. In the past year the department has moved responsibility for contract monitoring twice. Prior to March 2005, contract monitoring was assigned to the department's 13 districts and one region. The department then transferred this function to its inspector general's office, which has seven field units. In October 2005, the department again

transferred this function to a new Quality Management Unit assigned to its central office.

These reorganizations resulted in a high vacancy rate of experienced monitoring staff. For example, three of the six contract monitors who were initially assigned to Districts 1 and 2 declined to transfer to the new Tallahassee office. Department managers stated that these transfers resulted in a loss of 24 experienced contract monitoring staff statewide, out of 68 total positions (35%).

To address this loss of expertise and provide its contract monitoring staff with the knowledge and effectively needed to oversee community-based providers, the department needs to develop a strong training program for This training should cover the these staff. contracting process, the community-based care system, state and federal requirements, and effective monitoring practices. It also will be important for this training to cover the role of these staff in the department's overall contract management, monitoring, and quality assurance system, including how contract monitoring staff should interact with contract managers and quality assurance staff.

The department is implementing changes to provide more technical assistance and training for its contract management staff. The department is taking steps to address a similar weakness for its contract managers. recently, the department's contract managers lacked training on key activities such as processing lead agencies' invoices as well as general accounting principles. They also lacked training specific to community-based contracts, such as what levels of documentation lead agencies were to maintain, and how to analyze lead agency budgets, general ledgers, and spending plans. The staff also needed training to clarify their role in monitoring lead agency subcontractors as well as changes in program and contract requirements; Florida statutes; and department rules, policies, and procedures.

To address this problem, the department has developed a new training program for its contract managers. The central office's Office of Contracted Client Services has established this program based on training needs identified by these staff. The department is holding two-day

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training sessions, which are taught by subject matter experts. The department held the first training session in May 2005 and a second training session in December 2005, and is planning to hold quarterly training in the future. In addition, the office created a training curriculum on the department's overall contracting process and will offer this training to contract manager supervisory staff in January 2006.

The department also plans to establish contract resource teams to provide ongoing technical assistance and training to contract managers. Contract resource teams will be located in each zone and staffed with a contract procurement and negotiation specialist, financial specialist, and performance and training specialist. The department is currently attempting to locate interdepartmental resources to fund 20 contract resource team positions. The department does not have a timeframe for implementing the contract resource teams due to current position vacancies.

The department should develop a similar training program for its contract monitoring staff.

The department's oversight efforts continue to be hindered by delays in implementing its HomeSafenet information system

Although the department has been implementing HomeSafenet for several years, the data system is not yet able to provide the department and lead agencies with critical child welfare information. The department is in the process of selecting a vendor to complete the project, but it likely will be several years before the data system is finished and fully operational. Until this occurs, the department and lead agencies will lack key information needed to effectively manage and monitor the outsourced child protection system.

HomeSafenet is intended to automate many child welfare functions through standardized data collection and case management tools. The system also is intended to provide child protective investigators, case managers, and program management with on-line real-time information on the progress and characteristics of each case. In addition, the system is intended to improve case management, case planning, and financial processing.

The department has spent over 10 years and \$181 million planning, developing, and maintaining the HomeSafenet system. The department began initial development in the early 1990s and obtained federal approval in Fiscal Year 1993-94. However, the department experienced several delays during the system's planning phase, which delayed the implementation start date until November 2000.

Although several components of HomeSafenet are operational, department and lead agency oversight efforts will continue to be hindered until critical system components are completed. The current system has basic case management reporting functions, and provides data for federal reporting purposes, Child Safety Assessment information, and Hotline intake However, the system is approximately only 20% complete with several key components yet to be developed, including the planned financial and case management modules, which are essential for efficient oversight of lead agencies. the financial module example, until implemented, the department will rely on two separate automated accounting systems to track and manage financial transactions. One of these systems is antiquated and has been implemented inconsistently by districts. Moreover, because HomeSafenet has not been fully operational, lead agencies developed their own accounting systems for financial management.

In the absence of the planned case management module, department and lead agency program supervisors do not have information accessible on a daily basis that tells them whether case managers are developing effective case plans or referring families to appropriate services. The department also lacks access to key information such as the caseloads of the child welfare staff employed by the lead agencies and their subcontractors, whether families have substance abuse problems, and foster home capacity.

The department is in the process of selecting a vendor to complete the project. In June 2004, the department had selected a contractor who would have been required to complete HomeSafenet by December 2005. However, subsequent to a vendor protest, the department re-bid the contract. The department expected to award the new contract by January 3, 2006, and anticipates a contract start date of February 1, 2006. The contract will span five

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years and includes maintenance once the system is developed. The completion date for HomeSafenet is still uncertain because the department will use the contract to establish deliverable due dates for major components of the system.

The department needs to develop an effective system to monitor the viability of lead agencies

Lead agencies are key entities in the community-based care system and are responsible for managing child welfare services in their areas. It is essential that the department have an effective process for monitoring whether the lead agencies are appropriately functioning and continuing to be financially sound. To date, two lead agencies have encountered serious financial problems that led to these entities discontinuing their contracts, which required the department to transfer program services to other entities, creating the risk of service disruptions.

As noted in prior OPPAGA reports, the department has lacked an effective method for monitoring the ongoing viability of lead agencies, which is important for early identification and resolution of problems. 4 In our September 2004 report, we recommended that the department implement a centralized, coordinated process for evaluating lead agency viability and develop criteria for determining when fiscal, administrative, and/or performance problems warrant further review. This process should include a standardized system to collect and analyze fiscal, administrative, and performance data from each lead agency. Our report provided a list of 31 factors that influence lead agency viability that we recommended the department consider when developing measures and benchmarks for monitoring lead agency performance.

The department has developed but has not yet implemented a viability assessment system. The department contracted with a state university to develop viability assessment procedures and tools and received these products in June 2005. The department has not yet established a timeline to implement the system.

Department staff have not consistently monitored lead agency contracts in a timely manner

Although department procedures require that lead agencies should receive annual contract monitoring reviews, two lead agencies were not monitored for Fiscal Year 2004-05. Further, many of the reviews that were conducted were not issued in a timely manner. These problems arose largely due to reorganizations of the contract monitoring function. The department is developing plans to improve the timeliness of these activities.

During contract monitoring reviews, department staff examine lead agency activities to determine if they have met contract requirements during the fiscal year, and these reviews may be conducted after the fiscal year has ended. For Fiscal Year 2004-05, 19 lead agencies were operational and thus should have received contract monitoring reviews for their activities during that year. ⁵

However, the department completed annual contract monitoring for only 17 of these lead agencies. Seven of these reviews were conducted by the Contract Performance Unit between November 2004 and March 2005 when this unit was still responsible for this function. Ten additional lead agencies were monitored during the seven months the function was assigned to the Office of the Inspector General. Two lead agencies did not receive contract monitoring reviews; these agencies had contracts valued at \$66.4 million during the year.

In addition, due largely to problems caused by the transfer of the monitoring function, the Office of the Inspector General did not issue contract monitoring reports in a timely manner. The transfer of the monitoring function left the new unit with vacant positions and inexperienced staff. According to the department's audit director, contract monitoring reports did not meet management's expectations and had to be rewritten, contributing to delays in report issuance.

Special Report: DCF Improves Readiness Assessment Process; However, Additional Changes Are Needed, OPPAGA Report No. 04-65, September 2004; Child Welfare Transition Nearly Complete; Budget Allocation and Oversight Systems Need Strengthening, OPPAGA Report No. 05-12.

⁵ Three lead agencies (Our Kids, Inc., Community-Based Care of Seminole, and Community-Based Care of Brevard) were not subject to contract monitoring during Fiscal Year 2004-05 because they have not provided services for one year or more.

⁶ The two lead agencies that did not receive required contract monitoring are Heartland for Children, Inc., and Kids Central, Inc. Both of these lead agencies are located in the Central Zone.

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The unit took an average of four months to release each report after conducting monitoring visits, compared to the 30-day report issuance timeframe formerly achieved by district contract performance units. Some contract managers and lead agency staff asserted that these delays in issuing reports led to contract managers and lead agency staff delaying development and implementation of corrective action plans.

The department has plans to improve the timeliness of contract monitoring activities. The department moved the contract monitoring function to its new Quality Management Unit in October 2005. This unit now oversees both contract monitoring and quality assurance reviews of all department programs.

The unit is working to ensure that all lead agencies receive annual contract monitoring and that these reports are issued in a timely manner. To do so, the unit is implementing a schedule that requires contract monitoring of all lead agencies on an annual basis, and it has given priority to monitoring lead agencies in the Central Zone because these reviews are overdue. December 10, 2005, the unit had conducted contract monitoring for two of the five lead agencies in the Central Zone, as well as eight lead agencies in other areas of the state. Also, to streamline report production, unit managers plan to reduce the number of steps in the report draft review process and continue with the inspector general's report format, which included only major findings in published reports. significant monitoring findings are addressed through daily briefings with lead agency staff and are documented in memos. At the end of the monitoring, the department provides the lead agencies with a monitoring log detailing all findings regardless of severity.

The department has not ensured that lead agencies have effectively monitored their subcontractors

Lead agencies also have key monitoring responsibilities in the community-based care system, as these agencies are to monitor the activities of their subcontractors who provide most of the direct services to dependent children and families. As of December 2005, lead agencies

had 500 subcontracts with direct service providers, including 64 subcontracts with case management organizations. Lead agencies' monitoring responsibilities are delineated in their contracts with the department, which provide that lead agencies are to establish and follow written procedures for the monitoring and quality assurance reviews of subcontractors.

It is critical that lead agencies effectively monitor the activities of their subcontractors, who provide key services in the decentralized child welfare system, including conducting child and family assessments, developing case plans, making service referrals, and providing emergency shelter, foster care, and adoption-related services. If lead agencies fail to adequately manage and oversee their subcontractors, the state has only limited assurance that children and their families receive needed and effective services, state funds are used appropriately, and performance meets state and federal standards.

However, many lead agencies are not fulfilling this critical monitoring responsibility. Department monitoring reports indicate that 12 of the 17 lead agencies monitored in Fiscal Year 2004-05 either have not monitored their subcontractors adequately have not conducted subcontractor monitoring. Findings of inadequate subcontractor monitoring include not developing procedures for policies and subcontractor monitoring, not monitoring all subcontractors, not requiring and following up on corrective actions, not monitoring administrative and financial compliance, and lead agency monitors not finding significant instances of subcontractor noncompliance later identified by the department.

Similar problems have occurred with certain lead agencies' quality assurance reviews of their subcontractors. According to contract monitoring reports, 6 of 17 lead agencies that were monitored in Fiscal Year 2004-05 have not fully implemented their quality assurance plans for reviewing the performance of their subcontractors. According to contract managers, needed improvements include increasing the frequency of reviews, developing a more systematic approach to quality management, and expanding quality assurance reviews to non-case management subcontracts.

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Lead agencies that do not conduct or only minimally conduct contract monitoring or quality assurance reviews of their subcontractors may have only limited information about critical elements of subcontractor performance and/or compliance with state and federal regulations. For example, one lead agency recently found that its lack of a comprehensive quality assurance review process led to delays in identifying a problem with one of its The subcontractor was not subcontractors. accurately completing time logs and had significant case manager turnover that created high caseloads. This delay resulted in additional costs for the lead agency, low staff morale, and loss of stakeholder support. The lead agency recently has implemented an improved quality assurance system due to a change in its executive management and pressure from the department's district office to improve service quality.

The department has not used its more punitive enforcement tools when it has determined that lead agencies are not abiding by contract requirements

To date, the department's monitoring of lead agencies has found that many lead agencies have been in noncompliance with contractual requirements, and in some cases has found repeated noncompliance. While the department is authorized to take a variety of enforcement actions when lead agencies do not comply with the terms of their contracts, to date it has taken only limited enforcement action when it has found these problems.

Many lead agencies are found to be in noncompliance with contractual requirements. As shown in Exhibit 2, the 17 contract monitoring reports issued by the department for Fiscal Year 2004-05 cited a variety of problems in lead agency contract compliance, with one or more problems noted in each lead agency reviewed. The most frequently cited problems include inadequate monitoring of subcontractors, missing or inaccurate staff time logs for case management, and inadequate internal controls over financial operations.

Noncompliance with contract provisions can result in substantive problems in the services to dependent children and their families as well as a potential loss of federal funding. Inadequate monitoring of subcontractors significantly decreases the state's assurance that children and families are receiving needed child protection services, and increases the risk that taxpayer monies are not being used in accordance with state and federal requirements. Failure to maintain accurate staff time logs can affect the state's ability to earn federal funds. The federal government reimburses the state for some costs of caseworker training and client services, and can disallow funding if lead agencies are unable to document the time spent on these tasks.

Exhibit 2
Department Monitoring Reports for Fiscal Years
2003-04 and 2004-05 Frequently Have Cited a
Variety of Critical Lead Agency Violations

FY 2003-04 (Lead Agencies	iolations Cited FY 2004-05 (Lead Agencies Monitored - 17)
2	12
5	11
3	9
6	8
2	6
4	5
1	4
	FY 2003-04 (Lead Agencies Monifored - 8) 2 5 3 6

Source: OPPAGA analysis from Department of Children and Families contract monitoring reports.

Many lead agencies have been repeatedly cited for these problems. Twelve of the 25 contract monitoring reports issued in Fiscal Years 2003-04 and 2004-05 showed that the lead agencies had some of the same findings of noncompliance found in previous reports. These recurring problems included inadequate subcontractor monitoring, failure to review financial statements, and inaccurate records of time spent on case management.

The department has not used its more punitive enforcement tools when it finds violations. The department's contracts with lead agencies authorize it to impose a variety of sanctions when it finds violations of contract requirements. The department may require the lead agency to develop a corrective action plan that must be

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approved by the department's contract manager. These corrective action plans specify the steps the lead agency must take to correct the problem. If the department subsequently finds that the lead agency has not corrected the deficiency in accordance with the corrective action plan, the department's contracts with lead agencies authorize a variety of enforcement actions. These include requiring the lead agency to submit additional reports on the matter and providing technical assistance by assigning a management consultation team. More punitive enforcement tools include issuing a cure letter that specifies a specific amount of time in which significant performance must be demonstrated, convening a management peer review team to intervene and work directly with lead agency administrators to establish a plan and timetable for addressing performance deficiencies, assessing fines, and terminating the contract.

To date, the department has not used most of its more punitive enforcement tools. when the department's oversight has identified violations of contract and legal requirements, it has required corrective action plans. In two cases, the department issued cure letters to two lead agencies that it deemed to be unstable and at risk of closing. 7 Department administrators told us that they also have required additional reporting from some lead agencies and provided technical assistance through management consultation teams. The department has not intervened with a management peer review team, assessed fines, or terminated lead agency contracts. Although two lead agency contracts have been terminated, these terminations were at the behest of the lead agencies.

The department faces significant barriers in enforcing lead agency compliance as there are few to no alternative providers available in most areas of the state, and it no longer has the staff to provide these services in-house. Department managers indicated that it is not productive to take strong enforcement actions to the point that lead agencies decide they no longer want to provide child protective services. As a result, the department seeks to correct contract violations by providing technical assistance rather than imposing sanctions.

Notwithstanding this constraint, the department needs to develop additional tools to help ensure that lead agencies meet contract provisions. Specifically, the department should take the steps listed below.

- The department should establish clear guidelines for imposing sanctions on lead agencies that fail to meet contract requirements. In addition to establishing criteria providing for progressive imposition of its existing sanctions such as requiring corrective action plans, the department also should develop policies and procedures for taking additional actions when appropriate, such as withholding a portion of administrative funding to noncompliant lead agencies and assuming direct control of some activities such as monitoring subcontractors if a lead agency consistently fails to adequately perform this task.
- The department should develop a data system to track the compliance histories of lead agencies. Currently, department managers lack such a system and would need to manually review individual contract monitoring reports in order to identify compliance trends. Over time, this method has become increasingly inefficient as additional lead agencies have joined the system and the number of contract monitoring reports continues to increase. Developing a tracking system would help the department identify system-related problems, analyze trends, ensure consistent application of penalties, and employ increasing levels of intervention when lead agencies fail to correct high-risk deficiencies.
- The department should annually report to the Legislature on lead agencies' compliance trends and identify those entities that have consistently failed to meet contract requirements. This would assist the Legislature in its oversight of the child welfare system.

⁷ Partners for Community-Based Care received a cure letter in November 2004 in response to untimely submission of court documents, an increasing length of stay rate, not conducting required monthly visits with children in their place of residence, and not maintaining an accurate account of all children's living arrangements and locations. Kids Central, Inc., received a cure letter in February 2005 in response to a low adoption rate, an increasing re-abuse rate, untimely submission of legal documents, overdue contract deliverables, and failure to conduct required monthly visits with children. Both lead agencies were able to improve performance and did not lose their contracts.

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The department needs to better define the responsibilities to be performed by its planned outsourced fiscal monitors.

The department is planning to outsource financial oversight of lead agencies. This fiscal monitoring is an essential oversight component as it enables the department to identify and address financial problems before they result in the loss of state funds or a lead agency reaching a state of crisis. To date, two lead agencies have failed due largely to financial problems, forcing the department to find other providers to take over services in these areas. ⁸ The department is planning to outsource fiscal monitoring, as it believes that it lacks needed in-house expertise to perform this oversight. However, it has not prioritized the specific tasks and responsibilities that these private vendors must perform for each lead agency.

The department spent \$137,408 for contracts and purchase orders with private vendors to review lead agencies' financial health based on a standardized financial health scorecard. One of these vendors designed this scorecard, which addressed personnel policies, financial statements, accounting records, management, planning, and invoicing. The scorecards were intended to serve as a reference tool for determining the depth and frequency of needed fiscal monitoring, and used a color-coded rating system. For example, a green rating indicated that minimal problems existed, while a red rating indicated that a lead agency needed to be monitored on a weekly basis. These reviews were completed by June 2005.

However, department administrators decided not to rely solely on the scorecards after concluding that it was not an effective mechanism for assessing lead agency financial health due to deficiencies in the system used to weight lead agency performance. Specifically, the scorecard more heavily weighted relatively minor problems that could be easily remedied than major problems that required long-term solutions. For

example, the scorecard gave more weight to the deficiency of a lead agency's board of directors not reviewing monthly financial statements than the problem of a lead agency lacking sufficient cash to cover 30 days' expenses.

The department subsequently surveyed all district administrators in September 2005 to obtain their assessments of the financial status of each lead agency. The district administrators are to use this information to determine each lead agency's level of risk, and will then contract with a private firm to provide ongoing fiscal monitoring of each lead agency. The department selected two vendors through a Request for Proposal process, and the district administrators will sign contracts with one of these two vendors for each lead agency.

Under the outsourcing plan, the private fiscal monitors are to work with department contract managers and monitoring staff to ensure the fiscal integrity of each lead agency. The fiscal monitor is to review each lead agency and develop feasible and cost-effective recommendations to address any identified weaknesses. Under this plan, the department's contract managers will still perform day-to-day fiscal oversight tasks such as approving lead agency invoices, and its contract monitoring staff will remain responsible for ensuring the lead agencies comply with all of the fiscal components in their contracts. The department's contract management staff also will be responsible for determining whether fiscal monitors fulfilled their contractual obligations.

The department has not yet finalized the specific monitoring tasks that its privatized fiscal monitors must perform for each lead agency. department developed a comprehensive list of potential fiscal monitoring tasks from which district administrators are to choose when negotiating the fiscal monitoring contract for each lead agency. 9 The list of possible tasks includes determining if the lead agency has appropriate accounting system policies and procedures and provides funds for expenditures in accordance with contract requirements. Other possible tasks include determining whether the lead agency maintains sufficient financial records of internal fiscal performs tests

⁸ Family Continuity Program (SunCoast Region) failed in 2004 because its management overspent the lead agency's budget and accumulated a debt of \$3.8 million. Partnership for Families (District 2A) failed in 2004 because financial invoices were not consistently submitted in a timely manner, resulting in significant cash flow problems for the provider's subcontractors. The lead agency also operated using an outdated cost allocation plan and failed to implement a general ledger accounting system even though an accounting system was purchased with department funds.

⁹ The department developed this list before signing the fiscal monitoring contract for the District 11 lead agency in June 2005.

The department is developing but has not finalized a core set of tasks that are to be included in each fiscal monitoring contract. The department needs to complete this effort and ensure that its final instructions to district administrators clearly outline the roles and minimum responsibilities of the outsourced fiscal monitors.

In addition, the department needs to establish reporting timeframes for fiscal monitors. The contracts signed by district administrators to date do not consistently address how frequently fiscal monitors are to prepare and present written reports of their documented findings. The contracts also do not specify the content and format of the reports.

As of December 2005, department district administrators had signed three fiscal monitoring contracts, although the department has not completed the list of core tasks that must be included in each fiscal monitoring contract. It will be important for the department to subsequently amend these contracts to ensure that all lead agencies receive at least the same basic level of fiscal monitoring.

The department is redesigning its quality assurance system to give lead agencies a larger quality assurance role; instructions and training for staff need strengthening to help ensure success

To address concerns with its current oversight system, in September 2005 the department and lead agency staff completed a plan to redesign the quality assurance process. The department expects to start transitioning to the new system in April 2006.

The redesign will shift some oversight responsibilities from the department to the lead agencies. Under the redesign, lead agencies will assume a larger role in providing quality assurance reviews of their subcontractors and inhouse services. As shown in Exhibit 3, in Tier 1 of the system, lead agencies will be required to develop a quality management plan and conduct quality assurance reviews of in-house and subcontracted services at least every six months. Lead agencies must either develop or obtain their own quality assurance data collection tools or choose from existing department-approved tools.

This shifts responsibility from the department, as the current process requires department zone staff to conduct this level of quality assurance by reviewing a sample of cases from a lead agency's files using a data collection tool and stakeholder interviews. The department will no longer supplement lead agency quality assurance efforts by conducting its own quality assurance reviews of subcontracted and in-house lead agency services on a semi-annual basis, as it did under the former system.

Exhibit 2
The Department's New Quality Assurance Plan Shifts
Responsibilities to Lead Agencies

Responsibilities to Lead Agencies		
	Current System	New System
Tier 1	Lead agency contracts require them to develop and implement a Quality Management Plan for conducting quality assurance reviews of their subcontractors to assess direct service delivery. The contracts do not address the frequency of these reviews.	Lead agencies will be required to develop and implement a Quality Management Plan for reviewing their in-house and subcontracted services. The plan will incorporate minimum requirements established by the department. Lead agencies must either develop or obtain their own quality assurance tools or choose from existing department-approved tools. Lead agencies must conduct their quality assurance reviews at least every six months.
Tier 2	Department zone employees conduct quality assurance reviews of lead agencies through peer review of case files and stakeholder interviews. These reviews occur every six months.	Department zone staff, with central office staff input, will be responsible for the initial assessment and authorization of the lead agency Quality Management Plans and validating lead agency Tier 1 monitoring.
Ther 3	The department's central office conducts quality assurance reviews to validate district monitoring activities, identify best practices, and review the state's compliance with federal requirements. The central office also provides technical assistance as needed.	Central office staff will be responsible for conducting statewide Child and Family Services Reviews to prepare for compliance with federal reviews, providing technical assistance to assist lead agencies and zones in their quality assurance activities as needed, and maintaining the state's Program Improvement Plan. 1,2
¹ The	Child and Family Services	Review is a federal review that

¹ The Child and Family Services Review is a federal review that monitors and evaluates child protective services, family preservation and support, foster care, independent living, and adoption services.

Source: Department of Children and Families.

² The Program Improvement Plan is a federal requirement developed in collaboration with stakeholders and partners and negotiated by state and federal officials. The plan addresses areas that are not in substantial conformity as a result of the federal Child and Family Services Review.

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The new process also will shift responsibilities to lead agencies that are currently provided by zones under Tier 2 of the quality assurance process. Whereas the department formerly supplemented the quality assurance review efforts of the lead agencies by reviewing samples from all lead agency case files and conducting stakeholder interviews twice a year, its role will be limited to validating lead agency quality assurance review data by examining a sample of the case files already reviewed by lead agencies. Department administrators indicate that its review of lead agency quality assurance activities will now be conducted twice each three-year period.

The new process will also modify the department's role in Tier 3 monitoring. The central office will continue to conduct statewide Child and Family Services Reviews to prepare for compliance with federal reviews, maintain the state's Program Improvement Plan, and provide technical assistance as needed. However, central office staff will no longer conduct quality assurance reviews to validate district monitoring activities.

The department's rationale for these changes is to make lead agencies more accountable for meeting performance standards established by the department. Also, the department believes that giving lead agencies the primary responsibility for quality assurance can reinforce the lead agencies' role in managing the child welfare system.

Given that the department has determined that many lead agencies have not adequately met their current monitoring responsibilities, transferring additional oversight duties to these entities will increase risks unless the department ensures that the lead agencies have the capability and willingness to fully meet this responsibility. Several key factors should be addressed to help ensure that this initiative is successful. In addition to the steps discussed on page 9 (developing guidelines for enforcement action if lead agencies fail to meet their monitoring responsibilities, a data system to track lead agency compliance, and additional reporting to the Legislature on repeated lead agency noncompliance), the department should

 clearly outline the roles and responsibilities of the department and lead agencies in the quality assurance process; provide additional guidance on the criteria it will use to determine the adequacy of lead agency quality assurance plans;

- train lead agency and department staff on their new roles and the revised quality assurance responsibilities;
- oversee initial quality assurance monitoring efforts of lead agencies and certify when they have met the department's expectations;
- maintain the capacity to provide quality assurance monitoring should it determine that some lead agencies are not meeting requirements; and
- estimate the fiscal impact of the redesign.

Clearly outline the roles and responsibilities of the department and lead agencies in the quality assurance process. As the department proceeds with its plan to change the quality assurance process, it will need to continue to refine its instructions to lead agency and department staff to clearly articulate their roles and responsibilities. The department's procedural documents for lead agency and department quality assurance staff will need to be strengthened to better support these staff in their new roles and clarify the state's expectations.

Although the department is developing a list of core components that lead agencies must include in their new quality assurance systems for federal reporting purposes, it needs to provide further clarification of their responsibilities. Core components that lead agencies must address for federal reporting purposes include case plan development, placement stability, repeat maltreatment, ongoing assessment of risk, and visitation. However, other department requirements for lead agencies have not yet been specified. For example, the department needs to address the elements lead agencies must include in their quality assurance policies and procedures, department reporting requirements, and required corrective actions when poor performance is identified.

The department also needs to ensure that it establishes procedures that clearly specify the roles of contract managers, contract monitors, and quality assurance reviewers in the redesigned process. These procedures also should address how these staff should interact and provide information to

Report No. 06-05 OPPAGA Report

each other that helps the department identify any implementation problems.

Provide additional guidance on the criteria that will be used to determine the adequacy of lead agency quality assurance plans. The department's plans for redesigning quality assurance will allow lead agencies to either develop their own quality assurance tools or choose from existing department-approved tools. The department will review and approve the tools selected to make sure these meet federal requirements.

However, zone and lead agency staff would benefit from additional guidance on the criteria the department will use to determine the adequacy of lead agency quality assurance plans. The department is planning to provide zone staff with a criteria guide that lists the major components that lead agencies must incorporate into their quality assurance plans. Zone staff will use the criteria guide when making decisions on whether to approve lead agencies' plans. However, the guide does not include checklists to aid in identifying missing components in proposed lead agency plans, nor does it include adequate descriptions of the expectations for each deliverable. For example, one deliverable is that the lead agency must have evidence of the methods it will use to consistently apply its review tool, but the criteria guide does not contain examples or descriptions of methods that lead agencies can use to ensure consistency. This lack of specificity leaves room for department reviewers to inconsistently or incorrectly interpret whether quality assurance plans meet minimum requirements. Further specificity also would help lead agencies determine whether the plans they submit meet the new requirements.

Train lead agency and department staff regarding their new roles and the revised quality assurance procedures. Lead agencies would take on a much larger and different role by assuming additional responsibilities for quality assurance, which increases the importance of providing thorough training to lead agency quality assurance staff. Otherwise, accurate and timely results are unlikely to be achieved. The training program should include instruction on how to develop and implement an effective program, reporting

requirements, and data analysis (statistical principles and research methodologies).

Department zone staff also will need training as their role shifts from conducting quality assurance reviews to overseeing lead agencies' quality Department staff will assurance activities. determine whether each lead agency in their zone has an adequate quality assurance plan and a sound method for collecting and assessing the accuracy of data. Training for department zone staff needs to address the review tools chosen by lead agencies and data analysis (statistical principles and research methodologies). Given that lead agencies would now have the flexibility to develop their own quality assurance plans and choose among various quality assurance data collection tools, zone staff could have to be knowledgeable about and determine adequacy for several different lead agency quality assurance For example, Central Zone quality assurance staff could need to evaluate as many as five different plans and quality assurance data collection tools because this zone includes five lead agencies.

Oversee initial quality assurance monitoring efforts of lead agencies and certify when they have met the department's expectations. The department should refine its plans to include a certification program for lead agency quality assurance reviewers and review processes. The certification process should assess whether the lead agencies have demonstrated the willingness and ongoing ability to oversee subcontractors and in-house services. The certification process should take into account whether a particular lead agency already has demonstrated capacity and willingness to conduct quality assurance reviews and subcontract monitoring based on previous department oversight reports. Lead agencies that have consistently failed to comply with quality assurance or subcontract monitoring requirements should be subjected to a more rigorous process in which they demonstrate how they can comply with the additional quality assurance requirements. These agencies also should document and department employees verify that the lead agency has successfully completed quality assurance reviews of its subcontractors. Once a lead agency becomes certified, the department should reduce

OPPAGA Report Report No. 06-05

its oversight to the planned verification of a sample of quality assurance cases twice each three-year period.

Maintain the capacity to provide quality assurance monitoring should the department determine that some lead agencies do not meet requirements. The department has previously determined that some lead agencies have not adequately met their current monitoring responsibilities. These lead agencies may have difficulty meeting expectations in a quality system that increases assurance responsibilities. Some department administrators have stated that smaller lead agencies may not have the resources to assume additional responsibility for quality assurance. department may need to re-assume quality assurance monitoring for these lead agencies. Given that the department may need to become more involved in some lead agencies' quality assurance, it should maintain the capacity to provide this level of oversight should a lead agency fail to become certified.

Estimate the fiscal impact of the redesign. The shift of additional quality assurance responsibilities to lead agencies likely will affect the staffing and funding needs of the department and some of the lead agencies. Lead agencies will receive additional responsibilities, while the department's quality assurance responsibilities would be reduced. Since lead agencies vary in their level of staffing and resources, the extent to which they can absorb a new responsibility also will vary. The department's internal staffing and resources also will be affected in the long term as the redesign is implemented and more lead agencies successfully take on their responsibilities. However, these positions may be needed elsewhere in the department to address the weaknesses in lead agency oversight discussed in this report. The department should estimate the fiscal impact of the redesign and provide this information to the Legislature for use in the appropriations process.

Recommendations -

To better ensure adequate oversight of lead agencies and their subcontractors, we recommend that the department take the actions described below.

- The department should establish a training program for its contract monitoring staff that addresses the contracting process, the community-based care system, state and federal requirements, and effective monitoring practices. This training should be similar to that now being provided to its contractor managers, and also cover the role of these staff in the department's overall contract management, monitoring, and quality assurance system, including how contract monitoring staff should interact with contract managers and quality assurance staff. The department should periodically survey its contract managers and contract monitoring staff to identify their training needs.
- To efficiently monitor lead agency performance, the department needs to complete the financial and case management modules of HomeSafenet. The department should follow its established timeline for awarding the HomeSafenet contract and closely monitor the contractor's performance to ensure implementation is completed within budget and deadlines.
- To help ensure early identification of lead agency viability problems, the department should expedite implementation of its viability assessment plan. To promote a statewide assessment of lead agency viability, the central office should be responsible for coordinating the collection and analysis of viability reports.
- To help bring more lead agencies into compliance with the terms of their contracts, the department should take the steps outlined on page 9 of this report to establish clear guidelines for imposing sanctions on lead agencies that fail to meet contract requirements, develop a data system to track the compliance histories of lead agencies, and annually report to the Legislature on lead agencies' compliance trends.

Report No. 06-05 OPPAGA Report

- The department should finalize its core set of tasks to be included in each contract with outsourced fiscal monitors prior to signing final contracts for this service. The department also should specify how often the fiscal monitors must report to the department and the format and content of these reports.
- To better ensure the success of its redesign of the quality assurance system, the department should take the steps outlined on pages 12 through 14 of this report to
 - clearly outline the roles and responsibilities of the department and lead agencies in the quality assurance process;
 - provide additional guidance on the criteria it will use to determine the adequacy of lead agency quality assurance plans;
 - train lead agency and department staff on their new roles and revised quality assurance responsibilities;
 - refine its plans to include a certification program for lead agency quality assurance reviewers and review processes;
 - maintain the capacity to provide quality assurance monitoring should the department determine that some lead agencies are not meeting requirements; and
 - estimate the fiscal impact of the redesign.

Agency Response-

In accordance with the provisions of s. 11.51(5), Florida Statutes, a draft of our report was submitted to the Secretary of the Department of Children and Families for review and response. The Secretary's written response to this report is on page 17.

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021 or 800/531-2477), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

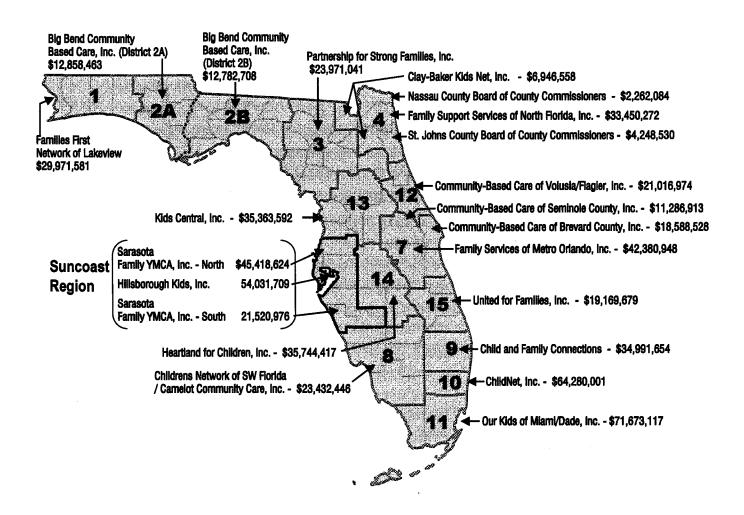
Florida Monitor: www.oppaga.state.fl.us

Project supervised by Nancy Dufoe (850/487-9242)
Project conducted by LeNée Carroll (850/488-9232) and Jennifer Whipple (850/922-6606)
Becky Vickers, Staff Director (850/487-1316)
Gary R. VanLandingham, OPPAGA Director

Appendix A

The State Provides Foster Care and Related Services Using a Community-Based System

As shown on the map below, the department has entered into contracts with 20 lead agencies to provide services in all 67 counties. The contracts for Fiscal Year 2005-06 total \$625.4 million. ¹⁰



¹⁰ Contract amounts are as of January 13, 2006.

Appendix B



State of Florida Department of Children and Families

Jeb Bush Governor

Lucy D. Hadi Secretary

January 13, 2006

Gary R. VanLandingham, Director The Florida Legislature Office of Program Policy Analysis and Government Accountability 111 West Madison Street Room 312, Claude Pepper Building Tallahassee, Florida 32399-1475

Dear Mr. VanLandingham:

Thank you for your January 4, 2006 letter accompanying the preliminary findings and conclusions of your report titled "Additional Improvements Are Needed as DCF Redesigns Its Lead Agency Oversight Systems."

The department generally concurs with the findings of your report. Enclosed is the department's response to the specific recommendations you provided. If you or your staff have additional questions, please feel free to call Tom Rankin, Director of Quality, Management, at (850) 921-7928.

Sincerely,

/s/ Lucy D. Hadi Secretary

Enclosure

Florida Department of Children and Families
Response to Recommendations in the Office of Program Policy Analysis and
Government Accountability Report
Additional Improvements Are Needed as DCF Redesigns Its Lead Agency Oversight System
January 2006

Recommendation: The department should establish a training program for contract monitoring.

Department's Response: The department concurs that contract monitoring staff will benefit from training as described in the recommendation and will dedicate resources to develop and implement a training program. This will become the priority after the same resources complete the development and implementation of the contract-monitoring component of the redesigned Quality Assurance (QA) function. The department concurs that surveying employees within contract monitoring and contract management is a useful method for conducting training needs assessment. Currently, the contract management training agendas are established by requesting input from contract managers as well as other stakeholders. The monitoring function plans to do this as part of its training needs assessment.

Recommendation: The department needs to complete the financial and case management modules of HomeSafenet following established timelines.

Department's Response: The department concurs and will continue to follow its established timeline.

Recommendation: The department should expedite implementation of its viability assessment plan.

Department's Response: The Viability Assessment process has been developed. Implementation of the viability assessment process was discussed by the Monitoring and Quality Assurance workgroups (which included both DCF and CBC representatives) and the implementation of the viability assessment process will be further considered after full implementation of the new 3 Tier Quality Assurance process.

Recommendation: The department should address compliance problems among lead agencies by (a) establishing clear guidelines for sanctions, developing procedures for withholding a portion of administrative funding to noncompliant lead agencies and assuming direct control of some activities such as monitoring subcontractors if a lead agency consistently fails to adequately perform this task, (b) implementing a compliance tracking system, and (c) reporting to the Legislature annually on lead agency compliance.

Department's Response: In response to (a), the department notes that withholding administrative portions of funds is already operationally possible through the use of financial penalties provided in Rule 65-29.001, F.A.C. There are no plans regarding development of guidelines for sanctions. The department does not concur with the recommendation to adopt monitoring responsibilities of lead agencies. This task is a function of the lead agency that must be performed by the vendor as the subcontractual relationship is established between the vendor and the subcontractor. The department conducts its monitoring of the lead agency by including observation and testing at the subcontractor level, however this is to verify the lead agency's finding, not to supplant their contractual obligation. In response to (b), a tracking system for compliance histories is already a feature included in the Contract Evaluation Reporting System (Monitoring Reporting Query) through the use of reports based on categories of findings. The query capability could be improved to segregate CBC contracts from other child welfare contracts. In response to (c), we will provide reports to the Legislature upon request.

Florida Department of Children and Families
Response to Recommendations in the Office of Program Policy Analysis and
Government Accountability Report
Additional Improvements Are Needed as DCF Redesigns Its Lead Agency Oversight System
January 2006

Recommendation: The department should finalize its core set of tasks for fiscal monitoring outsourcing, including specifications for reporting.

Department's Response: The Fiscal Monitor task structure to include reporting frequency and reporting content has been finalized and will be issued to the districts once financial resources have been identified.

Regarding the redesign of the 3 Tier Quality Assurance (QA) system, several recommendations are provided. The department concurs with most of these recommendations as indicated below:

Recommendation: The department should clearly define roles and responsibilities of the department and lead agencies in the quality assurance process.

Department's Response: The department concurs with this recommendation and will clearly define roles and responsibilities for both CBC and department staff.

Recommendation: The department will provide additional guidance on the criteria it will use to determine the adequacy of lead agency quality assurance plans.

Department's Response: The department has identified the required criteria for lead agency quality assurance plans. The criteria are based on nationally recognized case practice standards as well as Florida's statutory requirements. It will be the role of each CBC lead agency to develop individualized plans based on the criteria. The plans will be reviewed and certified by a statewide team with members consisting of identified department staff to ensure they include all required components. Tier 2 activities, performed by department staff, will assess their effectiveness as well as ongoing results that will be reported by the lead agencies to the department quarterly on a distinct set of core measurements.

Recommendation: Train lead agency and department staff on their new roles and revised quality assurance responsibilities.

Department's Response: The department concurs with this recommendation and has included in its implementation plan strategies to train both CBC and department staff. Training initiatives will focus on increasing statewide knowledge pertaining to quality case practice based on nationally recognized outcomes for children and families. Training will occur on revised roles and revised quality assurance procedures and expectations. The department recognizes the paradigm shift both in how DCF evaluates the performance of CBC providers and how CBC providers view their ownership of performance and accountability for their respective system of care. Plans are underway to train both department and lead agency staff on the revised 3 Tier Model Quality Assurance. Specifically, DCF staff will receive training on the shift from conducting quality assurance activities to that of an oversight role.

Florida Department of Children and Families
Response to Recommendations in the Office of Program Policy Analysis and
Government Accountability Report
Additional Improvements Are Needed as DCF Redesigns Its Lead Agency Oversight System
January 2006

Recommendation: The department should refine its plans to include a certification program for lead agency quality assurance reviewers and review processes.

Department's Response: The model has addressed this recommendation. As part of the contractual agreement with lead agencies it is required that they develop quality assurance plans that address both in-house and sub-contractor services. The model requires that each CBC provide the department with a specific plan addressing required components. A certification process has been planned to review, improve and initiate these plans. Ongoing certification of the plans to include not only content but also their effectiveness will be provided on an ongoing basis through the Tier 2 process. Using a defined, integrated QA and Contract Oversight team approach at the Tier 2 level the department will be able to certify that the quality assurance plans are comprehensive as well as effective. Furthermore, the model requires ongoing submission of data by the CBCs to enable verification of quality assurance for cases served by sub-contractors.

Recommendation: Maintain the capacity to provide quality assurance monitoring should the department determine that some lead agencies are not meeting the requirements.

Department's Response: While the redesign shifts the responsibility to the lead agencies to provide quality assurance reviews of their services and of their service providers, the department will maintain the overall responsibility for oversight of CBC performance. The office of QM will continue to track the performance of lead agencies in the Tier 2 and Tier 3 activities. The new model affords for an ongoing more timely monitoring from various data sources of the overall performance of anyone CBC. Even though actual monitoring is on an annual basis, the information will be reported quarterly to the department, which is an improvement over the former semi-annual reporting schedule. Monthly data will be available by which department staff will conduct performance and trend analyses. The department will retain adequate staff patterns from which to perform these performance management activities. However, the contractual expectation is for lead agencies to develop and implement quality management plans that include required components for quality assurance reviews for both in-house and sub-contractors. This requirement will be enforced as described above in the department's response to ensure compliance.

Recommendation: The department will estimate the fiscal impact of the redesign.

Department's Response: The department plans for implementation of this model includes careful analysis of resources and will determine appropriate allocation methodologies for distribution of resources. Distribution of resources will be planned in order for the CBCs to conduct Tier 1 quality assurance activities while maintaining resources for the department to continue oversight at Tiers 2 and 3.

Innoutovernienits in Independent Assist State's Statusyling Yould Living Services Will Better

House Future of Florida's Families Committee

February 22, 2006

Linda Vaughn Senior Legislative Analyst BENEAR SOCIEDAR OFFICE AND PROCESS FOR SOCIEDARY CONTRACTOR AND BUILDING SOCIEDARY SOC

What is Independent Living?

- program ideally providing youth • \$18 million transition assistance help with:
- Education
- Employment
- Housing
- Heath care
- Life skills
- Finances

Presentation Overview

- have poor school and work outcomes Current and former foster youth
- Few potentially eligible youth receive financial assistance
- reviews do not require providers to Contracts and quality assurance meet minimum performance standards

Onick Facts About Current and Former Foster Youth

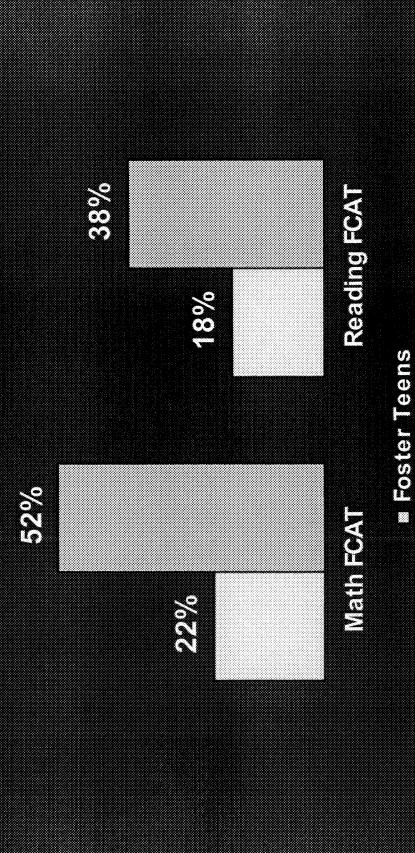
- 🗷 52% female
- 48% male

- = 45% Caucasian
- 48% African American
- 6% Hispanic
- 1% Other

Youth Problems Outside of Our Scope A Range of Factors May Contribute to

- Prenafal
- Parenting
- Trauma
- Other unknown factors

Fewer Foster Youth Score at Grade Level on Their FCAT Exams



■ General Population

Foster Teens Are More Likely to Be Held Back a Grade

18% 18% 40%

Foster Youth

General Population

Likely to Change Schools Foster Teens Are More

%86

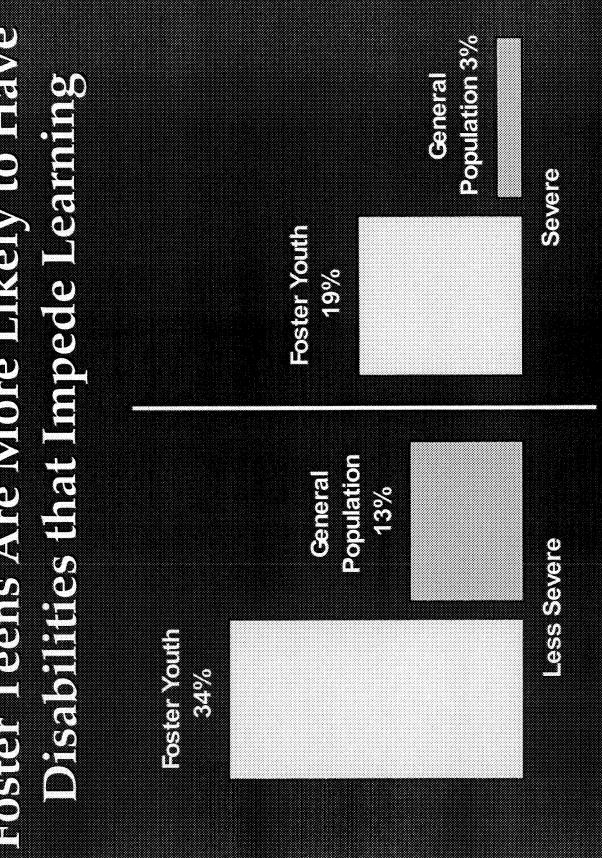
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Foster Youth

General Population

Program systematic office of Brogerin Palice Arthress Centrality of Constitution And Constitution

Foster Teens Are More Likely to Have



Foster Teens Are More Likely to Have Disciplinary Problems

47%

%**7**7

Foster Youth

General Population

Foster Teens Are More Likely to Be in Drop Out Prevention Programs

41%

% 79%

General Population

Foster Youth

BEGGER BEGGERMUNG OTHER OF PROPERTY POLICY VINTERS CONTOURING A VICTORIAL OF STATEMENT OF STATEM

More Likely to Be Homeless Foster Teems Are

i P 0.4%

Foster Youth General Population

Bloods actions of the of Brogeria William William Constant of Constant of Constant

Former Foster Youth Are Less Lilkely to Seek Post Secondary Education

54%

%1%

General Population

Former Foster

Youth

Employment Rates Are Similar

52%

Former Foster Youth General Population

PROBLEM COLUMNIC OF THE OFFICE OF PROPERTY WHITE A PRINCE AND CONTINUE AND CONTINUE

Former Foster Youth Make Less Money Than Their Cohorts

General Population \$8,807



Foster Youth \$2,234



Likely to Receive Food Stamps Former Foster Youth Are More

49%

% 200

Former Foster Youth

General Population

Biographic Residence Office of Program Police Andreas & Constitution Academical College

Former Foster Youth Are More Likely to Receive TANF

9%<u>9</u>

×1%

Former Foster Youth General Population

Former Foster Youth Are More Lilkely to Be in the Criminal Justice System

2% % 9

Former Foster Youth

General Population

Provided to Former Foster Youth Three Types of Assistance Are

- Transition assistance \$5,000
- Job training classes
- Aftercare funding \$1,000
- Prevents homelessness
- Road-to-Independence \$10,704
- Supplements post-secondary living expenses

Nearly \$20 Million Has Been Distributed to Foster Youth

- Road to Independence
- Aftercare and Transitional

\$6,992,328

\$2,372,353

FY 2003-04 (\$9,364,681)

\$8,233,063

\$2,310,174

FY 2004-05 (\$10,543,237)

Few Potentially Eligible Youth Receive Financial Assistance

Only 28% of eligible youth receive financial assistance

- Youth may not know they qualify
- Department fails to track number of youth eligible – no waiting lists
- CBCs ran out of money inadequate funding; budget caps exceeded

Insufficient DCF Oversight

- CBCs to meet minimum independent Contracts do not specifically require living standards
- Ouality management standards do not assess quality

Recommendations to the Department

- Instruct CBCs to maintain waiting lists to better prioritize services
- youth to determine their funding needs Collect data on transitioning foster
- disbursed funds to ensure they do not Improve oversight by tracking exceed established thresholds

Recommendations to the Department

- minimum standards be placed in its Improve oversight by requiring contracts
- Improve quality assurance standards so that they reflect quality

Questions?



Office of Program Policy Analysis & Government Accountability



December 2005

Report No. 05-61

Improvements in Independent Living Services Will Better Assist State's Struggling Youth

at a glance

Youth in foster care have poor academic outcomes compared to non-foster youth, due in part to their lack of school permanency, disabilities, disciplinary problems, and homelessness. In addition, former foster youth often struggle with self-sufficiency after leaving the foster care system.

To address this problem, the Legislature expanded services to assist former foster youth and created three funding sources to financially assist these youths' transition to adulthood. However, relatively few youth receive aid—in Fiscal Year 2003-04, slightly more than a quarter (28%) of potentially eligible former foster youth received financial assistance through the program. There is no data on whether the remaining youth qualified for or desired assistance, as the Department of Children and Families does not have a method to track these youth. The department has recommended to its community-based providers not to keep "waiting list" data pending formal rule promulgation.

The department should improve its oversight of community-based care providers by requiring contracts to meet minimum performance standards, and it should revise its contract monitoring to reflect programmatic improvement rather than contract compliance.

Scope-

This is the second of two reports examining the Independent Living Transition Services Program within the Department of Children and Families. ¹ The program provides services to help foster youth transition from state-sponsored care to living independently as productive citizens. The program also offers financial assistance to former foster youth to pay for educational and living expenses. The Department of Children and Families contracts with private providers for independent living services, and the department is responsible for overseeing these providers. Our report addresses three questions.

- What are the education and employment outcomes of foster youth?
- To what extent are former foster youth receiving financial assistance through the program?
- Is the department adequately monitoring the delivery of contracted independent living services?

Our first report identified recommended minimum system standards in providing foster youth with independent living services. Independent Living Minimum Standards Recommended for Children in Foster Care. OPPAGA Report No. 04-78, November 2004.

Background -

Approximately 17,705 youth in Florida lived in foster homes during Fiscal Year 2004-05. While most stay in foster care for relatively short time periods, many remain in state care until they reach adulthood. Long stays in foster care can hinder a youth's subsequent transition to adulthood, as most young adults learn the skills needed to live independently while they are growing up in their families. As foster youth are often raised in successive foster and group homes, they may not learn these critical skills before they reach the age of 18 and their traditional foster care services end.

To improve the success of foster youth, Congress passed the Foster Care Independence Act of 1999 (Public Law 106-169), which provides funding to states to improve services and expand eligibility for independent living services. Foster youth up to age 18 and former foster youth up to age 23 are eligible for services.

During August 2005, Florida's Independent Living Transition Services Program served 7,627 foster youth between the ages of 13 and 17 inclusive, all of whom were required to receive preindependent living services. The program also provided aftercare and transition services to 1,929 former foster youth aged 22 and younger.

Pursuant to s. 409.1451, Florida Statutes, program services are provided by community-based care providers. As shown in Exhibit 1, these community-based providers must offer current and former foster youth a continuum of independent living services and financial assistance.

For Fiscal Year 2005-06, the department has allocated \$18.3 million to the Independent Living Transition Services Program. This amount comprises a \$8.9 million federal grant from the John H. Chafee Foster Care Independence Program, \$3.2 million in federal Education and Training Voucher (ETV) grant funding, and \$6.2 million in general revenue, not including the general revenue used to match the federal dollars.

Findings -

Foster youth tend to have poor academic outcomes due in part to their lack of school permanency, disabilities, disciplinary problems, and homelessness. In addition, former foster youth, compared to the same-age population, often struggle with self-sufficiency upon leaving the foster care system.

While the department allocated \$20 million the past two fiscal years to assist former foster youth, most potentially eligible youth did not receive independent living financial assistance.

Current department contracts do not specifically require community providers to meet minimum performance standards for the independent living program. In addition, the current standards do not assess program quality, and the department's sampling methods result in inadequate oversight.

What are the educational and employment outcomes of foster care youth?

Compared to other youth in their age group, foster youth typically perform poorly in school, are at higher risk of unemployment, have long-term dependency on public assistance, and have increased rates of incarceration. We assessed the educational and employment outcomes of all 9,003 current and former foster youth between the ages of 13 and 22, as of June 30, 2004. We compared these youth to the general population on a variety of academic and earnings outcomes. See Appendix A for a more detailed discussion of our methodology.

Exhibit 1
Community-Based Providers Must Offer a Continuum of Independent Living Transition Services to Foster Youth

Service	Eligibility	Description
Pre-independent living services	All 13-14-year-olds in foster care	Life skills trainingEducational field tripsConferences
Life skills services	All 15-17-year-olds in foster care	 Banking and budgeting skills Interviewing skills Parenting skills Educational support Employment training Counseling
Subsidized independent living services	Some 16-and 17-year-olds chosen by the department as being able to demonstrate independent living skills.	Arrangements that allow a child to live independently of the daily care and supervision of an adult.
Aftercare support services	Youth, ages 18-22, inclusively, who have been in foster care, meet certain conditions, and are determined eligible by the department. Temporary assistance provided to prevent homelessness. The amount provided is based on funds available.	Services to assist young adults who were formerly in foster care to continue to develop the skills and abilities necessary for independent living. Mentoring and tutoring Mental health services and substance abuse counseling Life skills classes, including credit management and preventative health activities Parenting classes Job skills training Counselor consultations Temporary financial assistance
Road to Independence Scholarship	Youth, ages 18-20-years-old (initial award) Under 23 (renewal awards) Must meet one of the following criteria: (1) earned a high school diploma or its equivalent and has been admitted for full-time enrollment in an eligible postsecondary education institution; (2) enrolled full time in an accredited high school; (3) enrolled full-time in an accredited adult education program designed to provide the student with a high school diploma or its equivalent.	Financial assistance to help former foster children to receive the educational and vocational training needed to achieve independence. Amount of award based on the living and educational needs of the young adult and may be up to, but shall not exceed, the amount of earnings that the student would have been eligible to earn working a 40-hour-a-week federal minimum wage job.
Transitional support services	Youth ages 18-22, inclusively, who have been in foster care and that demonstrate that the services are critical to the young adult's own efforts to develop a personal support system and achieve self-sufficiency.	Other appropriate short-term services, which may include: Financial Housing Counseling Employment Education Mental health Disability Other services, if the young adult demonstrates that the services are "critical" to achieve self-sufficiency

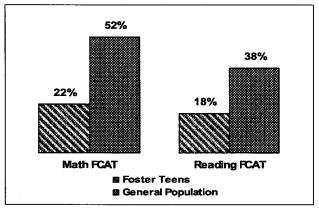
Source: Section 409.1451, Florida Statutes.

OPPAGA Report No. 05-61

Lack of school permanency, disabilities, disciplinary problems, and homelessness contributed to poor academic outcomes for foster youth

For the 2003-04 academic year, Florida's foster youth had poorer educational outcomes than nonfoster youth in their age group. As shown in Exhibit 2, foster youth scored substantially lower on the Florida Comprehensive Achievement Test (FCAT), with less than a quarter performing at grade level in math and reading.

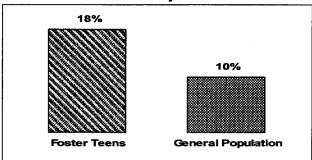
Exhibit 2
A Smaller Percentage of Foster Teens Scored at Grade Level on Their FCAT Exams



Source: Databases maintained by the Department of Children and Families and the Department of Education for foster youth age 13-17, inclusive, and same-age students enrolled in Florida schools as of June 30, 2004.

Exhibit 3 shows that foster youth were nearly twice as likely to be held back a grade than non-foster youth.

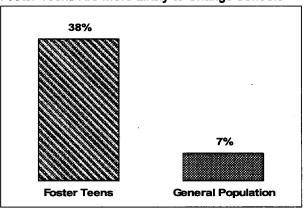
Exhibit 3
Foster Teens Were More Likely to Be Held Back a Grade



Source: Databases maintained by the Department of Children and Families and the Department of Education for foster youth age 13-17, inclusive, and same-age students enrolled in Florida schools as of June 30, 2004.

Several factors likely contributed to the low educational achievement of foster youth. Many foster youth move from one foster family to another, which disrupts their schooling. National research has shown that school permanency is strongly associated with school performance. Changing schools compromises the continuity and pacing that occurs when a youth remains in the same school. As shown in Exhibit 4, foster youth in our sample were five times more likely than non-foster youth to change schools. In the 2003-04 school year, 38% of the foster youth changed schools at least once, compared to only 7% of the general population.

Exhibit 4
Foster Teens Are More Likely to Change Schools

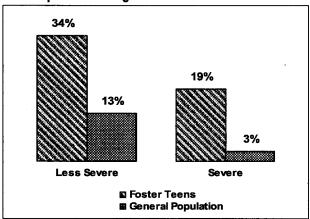


Source: Databases maintained by the Department of Children and Families and the Department of Education for foster youth age 13-17, inclusive, and same-age students enrolled in Florida schools as of June 30, 2004.

Foster youth disproportionately had disabilities that hampered their learning. As shown in Exhibit 5, foster youth were two-and-a-half times more likely to have been diagnosed with a "less severe" learning disability, such as a hearing, speech, or visual impairment, and seven times more likely to have been diagnosed with a "severe" disability, such as being educably mentally disabled or severely brain injured.

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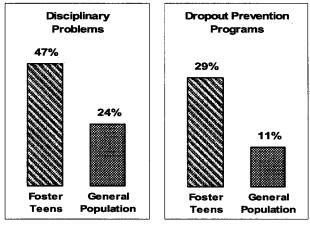
Exhibit 5
Foster Teens Are More Likely to Have Disabilities
That Impede Learning



Source: Databases maintained by the Department of Children and Families and the Department of Education for foster youth age 13-17, inclusive, and same-age students enrolled in Florida schools as of June 30, 2004.

Foster youth also experienced higher rates of school disciplinary problems that qualified them for dropout prevention programs than did non-foster youth. As shown in Exhibit 6, foster youth were twice as likely to have school disciplinary problems. These disciplinary problems ranged from being suspended, to being placed in an alternative school, to being expelled. Foster youth were also almost three times more likely to be involved in dropout prevention programs for youth who were already parents, were under supervision of the Department of Juvenile Justice, or were deemed unmotivated or unruly in the classroom.

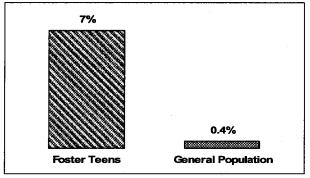
Exhibit 6
Foster Teens Are More Likely to Have Disciplinary
Problems and to Be in Dropout Prevention Programs



Source: Databases maintained by the Department of Children and Families and the Department of Education for foster youth age 13-17, inclusive, and same-age students enrolled in Florida schools as of June 30, 2004.

Finally, foster youth had higher rates of homelessness, which may have contributed to low academic achievement. Youth were considered homeless when they lived on the streets, in a shelter, or with a friend at any time during the school year. As shown in Exhibit 7, foster youth were 17 times more likely to be homeless than were non-foster youth their same age. As noted by published studies, academic achievement is compromised when youth are homeless.

Exhibit 7
Foster Teens Are More Likely to Be Homeless



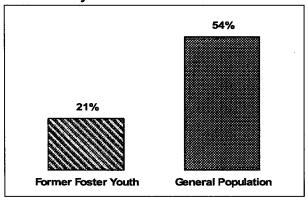
Source: Databases maintained by the Department of Children and Families and the Department of Education for foster youth age 13-17, inclusive, and same-age students enrolled in Florida schools as of June 30, 2004.

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Young adults leaving the foster care system struggle with self-sufficiency

Foster youth also tended to have poorer outcomes once they reached adulthood compared to the same-age general population. As shown in Exhibit 8, former foster youth, 18 and older, were less likely to attend vocational schools, community, or four-year colleges after leaving high school. Overall, one in five foster youth continued their education, compared to over half of those in the same-aged general population. ²

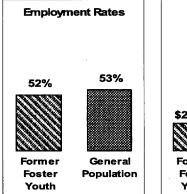
Exhibit 8
Former Foster Youth Are Less Likely to Attend Postsecondary Schools

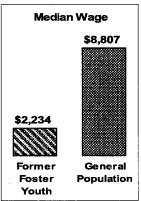


Source: OPPAGA analysis of Department of Children and Families data, Florida Education and Training Placement Information Program (FETPIP) data as of June 30, 2004, and data from FETPIP annual outcome reports.

Former foster youth also had lower employment success. As shown in Exhibit 9, both groups were employed at the same rate, but those who had been in foster care typically earned only one-fourth the median wage of the same-age population. The average annual earnings of former foster youth were \$2,500, compared to \$8,807 of the same-age general population.

Exhibit 9
Although Employed at Comparable Rates,
Former Foster Youth Earn Less

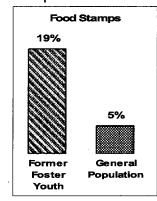


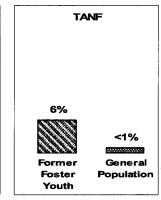


Source: OPPAGA analysis of Department of Children and Families data, Florida Education and Training Placement Information Program (FETPIP) data as of June 30, 2004, and data from FETPIP annual outcome reports.

Consistent with their low wages, former foster youth also were more likely to receive public assistance. As shown in Exhibit 10, these youth were four times more likely to receive food stamps and nine times more likely to receive Temporary Assistance to Needy Families (TANF). ³ Receipt of TANF monies was significant as it indicates many former foster youth were already parents prior to their 23rd birthday.

Exhibit 10
Former Foster Youth Are More Likely to Receive Food Stamps and TANF





Source: OPPAGA analysis of Department of Children and Families data, Florida Education and Training Placement Information Program (FETPIP) data as of June 30, 2004, and data from FETPIP annual outcome reports.

² We based our examination on the Florida Education and Training Placement Information Program (FETPIP) data. Additional explanation is provided in Appendix A.

³ TANF is time-limited public assistance payments made to poor families, based on Title IV-A of the Social Security Act. The program provides parents with job preparation, work, and support services to help them become self-sufficient.

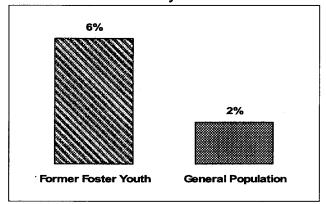
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One factor that may contribute to the relatively poor employment outcomes for foster youth is that the community-based providers are offering only limited job placement services to their clients. Our January 2005 survey of 12 community-based care providers found that while nearly all the agencies provided foster youth with training on job search techniques, such as resumé writing and interviewing skills, only half were helping these youth find part-time jobs. Further, only 4 of the 12 had developed partnerships with employment programs and local industries in order to provide youth with such opportunities as job shadowing, job mentoring, or internships. Providing a higher level of these job readiness services could help these youth find better, higher-paying jobs upon leaving the foster care system.

Compared to youth their same age, former foster youth had higher rates of involvement in the criminal justice system

The higher rate of disciplinary problems that foster youth experienced while in school extended to their early adult years as well. Former foster youth were three times more likely to be in prison or on probation than the same-age population, as shown in Exhibit 11.

Exhibit 11
Former Foster Youth Are More Likely to Be in the Criminal Justice System



Source: OPPAGA analysis of Department of Children and Families data, Florida Education and Training Placement Information Program (FETPIP) data as of June 30, 2004, and data from FETPIP annual outcome reports.

The recent expansion of the independent living program may improve future results. Although independent living services have been authorized since 1999, most program activities began in 2002

when the program was expanded and shifted from the department to private providers. As a result, most independent living programs that served the children we examined had been providing services less than three years. Similarly, financial assistance, in the form of the Road to Independence Scholarship, has only been offered since late 2002, which would have had only minimal impact on the foster youth outcomes we examined.

Are former foster care youth receiving financial assistance as intended by the Legislature?

Financial self-sufficiency is challenging for many young adults who age out of the foster care system. While in foster care, the state and foster parents manage youths' expenses until their 18th birthday. However, upon reaching adulthood, youth leave foster care and become responsible for managing their own expenses and supporting themselves.

To financially assist former foster youth, the Legislature established three funding sources.

The *Road-to-Independence Scholarship* is intended to help former foster youth receive educational and vocational training needed to achieve independence. Since former foster youth are exempt from paying in-state tuition at state schools, the scholarship primarily helps youth with living expenses such as rent and utility bills. Young adults finishing high school or enrolled in adult education programs are also eligible for this assistance. Florida law provides that youth can receive up to \$10,704 per year, which is the largest source of financial assistance for youth. ⁴

Former foster youth may receive *transition funding* of up to \$5,000 a year until age 23 to help achieve self-sufficiency. For example, a youth may receive transition funds for job training expenses.

Youth may receive emergency *aftercare funding* of up to \$1,000 per year until age 23, particularly to prevent homelessness.

Foster youth enroll for the Road-to-Independence Scholarship with assistance from community-

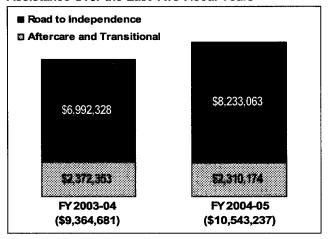
⁴ This award was determined based on the amount a youth could earn working a 40-hour-a-week job at the federal minimum wage.

based care providers, who also may award youth transition and emergency aftercare awards based on evidence of need, such as an eviction notice or past due utility bill.

Few potentially eligible youth received financial assistance

Over the last two fiscal years, the department and private providers have disbursed approximately \$20 million to assist former foster youth. As shown in Exhibit 12, providers disbursed most of these funds in the form of Road to Independence Scholarships.

Exhibit 12
Providers Have Disbursed Millions in Financial
Assistance Over the Last Two Fiscal Years



Note: These figures do not include Federal Education and Training Voucher (ETV) funds.

Source: Department of Children and Families' Budget Office.

However, relatively few potentially eligible youth have received this assistance. For instance, 28% of the target population of former foster youth 18-22 years old received financial assistance from the program during Fiscal Year 2003-04, as shown in Exhibit 13. The median amount received per youth was \$7,609. The median Road-to-Independence Scholarship was \$7,267, while the median transition award was \$1,975, and the median aftercare award was \$1,200.

There is no data available on what percentage of the remaining youth may have qualified for or needed financial assistance. The Department of Children and Families has not established a method for tracking youth who qualify for assistance or a method for projecting the number of youth it will need to serve in future fiscal years. A March 2005 DCF memo recommended that department managers not maintain "waiting lists" pending formal rule promulgation.

The providers we contacted indicated that some former foster youth want nothing to do with the program once they reach adulthood, and that some likely made a smooth transition to independent living and reached their educational goals without state assistance. However, some providers indicate that eligible youth are not receiving needed financial assistance. For example, one provider reported that as of July 2005, it was disbursing these funds to 103 young adults, but estimated that there were at least 125 more former foster care young adults in the county who may be eligible for assistance but were not being served.

Exhibit 13 Slightly Over a Quarter of Former Foster Youth Received Financial Assistance During Fiscal Year 2003-04¹

Financial Award by Youth	Number I	Percentage	Median Amount
Receiving Assistance	1,365	28%	\$ 7,609
Not Receiving Assistance	3,447	72%	0
Total Former Foster Youth	4,812	100%	n/a

Financial Award by Type	Number	Median
Road to Independence	1,116	\$ 7,267
Transition Funding	641	1,975
Emergency Aftercare	157	1,200
Total Awards	1,914	n/a

¹ The total financial awards are greater than the number of youth receiving assistance because youth may receive more than one type of assistance.

Source: OPPAGA analysis of Department of Children and Families' HomeSafeNet and disbursement data.

We identified four reasons why some youth in the target population do not receive program assistance. First, some young adults may not know that the aid is available. Providers were not required to contact foster youth who left the program before the 2002 act was passed, although youth are eligible for services until they reach 23 years of age. As shown in Exhibit 14, most of the young adults receiving independent living assistance in Fiscal Year 2003-04 were under 21 years of age. Relatively few older youth, who

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generally left the program prior to 2002, received services, and providers reported that they did not focus on identifying or serving these young adults.

Exhibit 14
Over Three-Quarters of Independent Living
Disbursement Recipients Were Between
18 and 20 Years Old 1

	Number of	
Age	Recipients	Percentage
14-17	3	>1%
18	215	16%
19	476	35%
20	359	26%
21	165	12%
22	114	8%
23-24	35	3%
Total	1,367	100%

¹ Three youths between 14 and 17 inclusive received subsidized independent living funding. Thirty-five youths age 23 to 24 received funding in error.

Source: OPPAGA analysis of department data.

Second, some young adults who apply for aid do not meet eligibility requirements. For example, a young adult who seeks Road-to-Independence assistance had to have been a dependent child living in licensed foster care or subsidized independent living at the time of his or her 18th birthday. While the department indicates that some youth applied for but were not eligible for funding, the department does not capture data on the number of such youth.

Third, the transition of independent living services from the department to the community-based care providers may have contributed to youth not being served. Ten of 12 community-based care providers we surveyed became operational between 2002 and 2004 and were in the process of establishing internal mechanisms to identify and serve young adults during Fiscal Year 2003-04. For example, Family Matters, the provider for Nassau County, took over the program in March 2004 and only had four months to set up the program and begin disbursing funds before the end of the fiscal year.

Finally, providers have experienced funding shortfalls. Although provider disbursements exceeded their budget authority by nearly \$600,000 during Fiscal Year 2003-04 and by \$1.1 million during Fiscal Year 2004-05 (which the department covered with other funds), they reported that they lacked funding to serve all eligible youth. For example, one provider estimated it would need approximately \$863,000 to maintain its current level of services for 103 young adults in Fiscal Year 2006-07, but anticipates that 60 more youth will age out of foster care by July 2006. Without additional funding, financial assistance will have to be reduced.

Two factors contributed to providers not being able to fully fund the demand for financial assistance. First, the department lacks data on the number of youth eligible for services because it has discouraged providers from maintaining client waiting lists pending formal promulgation. Waiting lists would enable providers to identify clients who are eligible for financial assistance but who are unable to be served due to a lack of resources, and allow the department to more accurately report budget needs to the Legislature. The absence of data on the need for assistance also hinders the department's ability to accurately allocate funds among providers to meet these needs.

Second, some providers were exceeding the allowable thresholds of funding categories. In contrast to the Road-to-Independence funding, there is not a statutory award amount for transitional and aftercare funding. In the absence of statutory direction, the department set limits of up to \$5,000 per year in transition funds and up to \$1,000 per year in aftercare, and it developed general guidelines for disbursement. However, in Fiscal Year 2003-04, over half (54%) of all aftercare recipients and 17% of transition recipients received more than the maximum amount allowed. As reported by the Auditor General, some districts and providers indicated they were not aware of the spending caps for Aftercare and Transitional Support. 5 Staff also indicated that Aftercare and Transitional Support spending caps were sometimes exceeded on a case-by-case basis due to emergency needs of the young adults. In other instances, posting errors to the financial records resulted in spending caps being exceeded.

Department of Children and Family Services – Independent Living Transition Services Program - Operational Audit, Auditor General Report No. 2005-119, February 15, 2005.

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As a result of these problems, some providers may not have had sufficient funding to serve all eligible youth.

To address the funding shortfalls, the 2004 Legislature required the department to create and implement a means test to better match the financial award with the financial status of each recipient. The assessment takes into consideration young adults' sources of income (earned or unearned) to determine the amount needed to attend school. The unearned income considered in the test includes tuition and fee exemptions, federal income, and other scholarships. The result of the means test should be that funds will be available for more young adults.

Is department oversight sufficient to ensure quality independent living programs?

While the department's oversight of community-based care providers has improved over time, more improvements are needed. ⁶ Specifically, two problem areas need to be addressed:

- contracts have not established minimum standards of care for independent living programs, and
- quality management processes have not ensured that providers are delivering quality services.

Contracts do not specifically require community providers to meet minimum standards for independent living

To ensure that independent living services are consistent in content and quality throughout the state, it is important that department contracts establish minimum standards for these services. Our November 2004 report recommended that independent living programs meet minimum standards in the areas of life skills, housing,

education, employment, health, aftercare, and transitional services. The department's current contracts do not establish specific standards in these areas but instead require providers to deliver services "described in statute," although Florida law simply lists the services that providers are required to deliver. As a result, the department has not established minimum performance expectations that providers should meet in delivering these statutorily required For example, Florida law requires services. providers to offer mentoring and tutoring services to youth, but does not specify how often or for youth. Without which more performance expectations in the contract, the state has little assurance that providers are offering meaningful mentoring and tutoring services. To hold providers sufficiently accountable, we continue to believe that department contracts should require independent living programs to meet minimum standards.

Independent living quality management standards do not assess quality

While the department has developed extensive quality assurance review procedures to monitor its community-based providers, these procedures provide only limited oversight of independent living services. The department has established a two-stage quality assurance monitoring program. Reviews of community-based providers conducted twice a year by the department's field staff and once every three years by the central However, while these reviews assess office. compliance, they do not adequately address program quality and cover all administered by the providers, which include not only independent living, but adoptions, foster care, and other child protection programs.

The biannual reviews of community-based providers evaluate independent living programs using a 12-item checklist that directs staff to determine whether youth have been assessed for program services and whether these assessments have occurred at suitable intervals. However, the checklist does not provide an assessment on the quality of programs being offered, and does not assess whether these programs are effective in helping youth develop independent living skills.

⁶ These issues have been discussed in prior OPPAGA reports on the transition to community-based care. See Child Welfare Transition Nearly Complete; Budget Allocation and Oversight Systems Need Strengthening, OPPAGA Report No. 05-12, March 2005; DCF Improves Readiness Assessment Process: However, Additional Changes Are Needed, OPPAGA Report No. 04-65, September 2004; DCF's Lead Agency Readiness Assessment Process Meets Statutory Requirements, But Needs Strengthening, OPPAGA Report No. 04-15, February 2004.

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The quality assurance instrument used by the central office contains no references to the independent living program. ⁷

These monitoring processes could be improved by providing an expanded assessment of whether providers are meeting contractually required minimum standards for independent living programs and are producing desired outcomes. For example, as noted earlier in the report, foster youth have significantly poorer educational outcomes than same-aged students. To evaluate how well providers were helping foster youth with their education, department monitoring staff could assess the educational achievement level of foster youth, determine whether the provider delivered remedial help with the youths' school work, and help with applications for colleges and financial aid. As recommended in our first report, the quality of these efforts could be evaluated with measures such as the percentage of foster youth performing at or above grade level or the percentage of youth entering two- or four-yearcollege degree programs. 8

Recommendations -

To improve the state's ability to estimate the program's funding needs, we recommend that the department collect data on foster care youth as they transition from care to identify how many

qualify for financial assistance and Road-to-Independence Scholarships. The department also should instruct its lead agencies to maintain waiting lists of eligible clients, which will enable it to better prioritize services to former foster youth.

To improve the program's financial management and avoid overpayments to former foster youth, we recommend that the department track the amount disbursed to each young adult to ensure that payments do not exceed established thresholds.

To better assess the effectiveness of independent living services provided by the lead agencies, we recommend that the department improve its oversight of community-based care providers in two ways. First, the department should develop minimum standards of performance independent living programs and include these quality standards in its contracts with these Second, the department should strengthen its monitoring efforts by examining program results as well as compliance. As noted in our prior report, the department should establish outcome-based performance standards for providers such as the percentage of foster youth performing at or above grade level. The department's new quality management process should include these outcome-based standards.

Agency Response

In accordance with the provisions of s. 11.51(5), Florida Statutes, a draft of our report was submitted to the Secretary of the Department of Children and Families for review and response. The Secretary's written response to this report is on page 13.

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021 or 800/531-2477), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

Florida Monitor: www.oppaga.state.fl.us

Project supervised by Marti Harkness (850/487-9233)
Project conducted by Linda Vaughn (850/487-9216), Susan Speck, and Jenny Wilhelm
Gary R. VanLandingham, OPPAGA Director

During the course of our fieldwork the department began making plans to re-engineer its quality management program. The department plans to require providers to conduct internal quality assurance reviews that meet minimum department requirements. Department field staff will then verify that providers have met these requirements and department headquarters will ensure that federal guidelines have been followed. The department plans to initiate this process in April 2006.

⁸ Independent Living Minimum Standards Recommended for Children in Foster Care, OPPAGA Report No. 04-78, November 2004.

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Appendix A

Methodology

Overview

We compared the educational and employment outcomes of youth who spent time in foster care versus non-foster care youth. We obtained demographic data from the Department of Children and Families' (DCF) HomeSafeNet system for current and former foster care youth between the ages of 13 and 22, inclusive (the ages served in the Independent Living program), as of June 30, 2004. We obtained academic information for youth in Florida public schools in 2003-04 from the Department of Education's Automated Student Information System. We obtained information on employment, postsecondary enrollments, and public assistance from the Florida Education and Training Placement Information Program (FETPIP) for former foster care youth, ages 18-22, and for Florida's same-age general population.

Education outcomes

Our analysis compared educational outcomes of foster care children ages 13 and older to all Florida children ages 13 and older in the Florida public schools in 2003-04. We first matched the HomeSafeNet foster care data to the Automated Student Information System data on client identifiers variables, such as name and Social Security numbers and flagged the foster care clients in the education data. This data set included information on FCAT scores, disciplinary action, school changes, homelessness, exceptional student education, and dropout prevention program participation for students resulting in a total of 1,318,216 nonfoster care youth and 3,587 foster care youth.

Former foster care youth

We also matched DCF HomeSafeNet data with data from FETPIP. ¹⁰ From the data we obtained from FETPIP, we were able to determine how many former foster care youth, 18 and older, were employed, in postsecondary education, receiving Temporary Aid to Needy Families (TANF) or food stamps, or had contact with criminal justice system.

For comparison, we analyzed the data in FETPIP's *Annual Outputs Report* for fall 2003 for 2002-03, 2001-02, and 2000-01 graduates and dropouts, the most recent published data for these cohorts. We chose these cohorts because they would be of similar age to the former foster youth. We excluded 18-year-old clients from the former foster youth group since they would have been 17 at the time of publication and not comparable to the cohorts included in FETPIP data. ¹¹

Community-based care provider survey

We visited Independent Living Services providers in each of DCF's six zones based on recommendations from DCF to determine how they are implementing their programs. During these site visits, we met with DCF administrators, community-based care (CBC) providers, former foster care youth, foster parents, and advocates. We then conducted a survey of 16 of these providers to obtain an update of how each provider has progressed in providing these services. Of the 16 providers we surveyed, 12 responded.

⁹ The number of students with FCAT scores was 812,897 for non-foster care students and 2,313 for foster care students.

¹⁰ The number of former foster care youth we found FETPIP data for totaled 3,626.

¹¹The FETPIP office provided us with comparable postsecondary information that was not included in its Annual Outcomes Report.



State of Florida Department of Children and Families

Jeb Bush Governor

Lucy D. Hadi Secretary

December 12, 2005

Gary R. VanLandingham, Director
Office of Program Policy Analysis and Government Accountability
111 West Madison Street
Claude Pepper Building, Room 312
Tallahassee, Florida 32399-1475

Dear Mr. VanLandingham:

Thank you for your November 22 letter with the attached draft report titled, "Improvements in Independent Living Services Will Better Assist Struggling Youth." We appreciate the opportunity to respond to your preliminary findings and conclusions. Below we outline your findings and recommendations and provide our response to each.

Finding #1:

Foster youth tend to have poor academic outcomes due in part to their lack of school permanency, disabilities, disciplinary problems, and homelessness. In addition, former foster youth, compared to the same-aged population, often struggle with self-sufficiency upon leaving the foster care system.

Department Response:

It is agreed that many youth in foster care struggle academically because of the factors listed above. Another factor to be considered is that many of these children are from homes that may not have provided academic support resulting in educational deficits at the time the children entered foster care. Intensive work is needed to make up these deficits.

It must be noted that while these findings are contained in a report on independent living services, educational needs are a foster care system issue in general. The department has entered into an Interagency Agreement with the Department of Education and Agency for Workforce Innovation. This agreement is intended to improve the collaboration between agencies and provide better services for children in foster care and those exiting care. Local agreements similar to the state agreements are being

developed as well. The state agreement is intended to be the model for development of local agreements.

In addition, the department must address federal education outcome measures for all children age 0-18 in order to be successful in federal Child and Family Services Reviews and, the department has crafted new rules regarding educational case planning requirements for children in foster children in draft administrative rules that are being developed.

Finding #2

Although the independent living program is intended to assist former foster youth, most potentially eligible young adults do not receive program services.

Department Response:

The report indicates that only 28% of the potentially eligible young adults receive assistance. While this percentage is low, there has been a notable increase in the number of young adults served over the past three years. A HomeSafenet report from October 31, 2005 indicates that 1377 young adults were receiving the Road to Independence Scholarship. Prior to October 2002 when the Road to Independence Act became law, an average of 300 to 350 young adults received services from the department after reaching age 18. This is further demonstrated by a remarkable reversal in .the use of Chafee dollars to fund the 13-17 and 18-21 year old populations during the same time frame. This represents a dramatic increase in participation since the current legislation went into effect.

Finding #3:

Current department contracts do not specifically require community providers to meet minimum performance standards for the independent living program. In addition, the current standards do not assess program quality, and the department's sampling methods result in inadequate oversight.

<u>Department Response:</u>

The regulations for outcome measures required by the federal law and funding source (Chafee) have not been issued by the Administration for Children and Families (ACF). The latest information from ACF is that regulations are undergoing an administrative rules process for approval of these outcome measures. This has slowed the approval process more than initially anticipated. The outcome measures were scheduled to be released in 2005, but have been delayed. The federal law specifies outcome measures such as educational attainment, high school diploma, employment, avoidance of dependency, homelessness, nonmarital childbirth, incarceration, and high-risk

behaviors. Once the federal regulations are issued, the department will be required to update its child welfare information system (HomeSafenet) to comply with the federal requirements.

The department's Office of Quality Management 3 tiered-system will be restructured placing greater accountability at the Community-Based Care level for monitoring with validation at the Zone level or 2nd tier. The Zone will also be tracking performance through various other data sources for continuous quality improvements by the Community-Based Care provider. The new Quality Management System model will begin transition in April 2006.

The department's new strategic and business plans have added measures, that target teens in foster care. These include educational measures and ensuring that teens receive the services identified in his or her life skills assessment.

Core elements, relating to outcomes prescribed by the federal Child and Family Services Review process will be published for use across the three tiers. Core elements will include some that are specific to the independent living services.

Recommendation #1:

To improve the state's ability to estimate the program's funding needs, we recommend that the department collect data on foster care youth as they transition from care to identify how many qualify for financial assistance and Road-to-Independence Scholarships. The department also should instruct its lead agencies to maintain waiting lists of eligible clients, which will enable it to better prioritize services to former foster youth.

Department Response:

The department agrees that it is important to know how many foster youth qualify for assistance as they exit care. Program staff will work with budget and data staff to determine how best to collect this data.

The department agrees that it should develop methods for projecting future funding needs for the independent living program. This will help in determining the need for budget management and possible legislative budget requests.

Recommendation #2:

To improve the program's financial management and avoid overpayments to former foster youth, we recommend that the department track the amount disbursed to each young adult to ensure that payments do not exceed established thresholds.

Department Response:

The department has hired a Central Office budget specialist for the Independent Living Program. The budget specialist has developed an accounting system that will make it easier to determine how the money is spent. The Central Office Independent Living budget staff will continue to provide technical assistance to Zone and district budget staff to determine the best way to track aftercare and transitional support services payments and ensure payment do not exceed the established thresholds.

Recommendation #3:

To better assess the effectiveness of independent living services provided by the lead agencies, we recommend that the department improve its oversight of community-based care providers in two ways. First, the department should develop minimum standards of performance for independent living programs and include these quality standards in its contracts with these providers. Second, the department should strengthen its monitoring efforts by examining program results as well as compliance. As noted in our prior report, the department should establish outcome-based performance standards for providers such as the percentage of foster youth performing at or above grade level. The department's new quality management process should include these outcome-based standards.

Department Response:

The community-based care providers that contract with the department are required to follow state law and Administrative Rule in providing an array of services. The department is currently in the process of promulgating Administrative Rules for Independent Living Services and all of Out-of-Home Care as well.

The department notes there is evidence of strong best practice in the Independent Living Program by many of the service providers. For example, Hillsborough Kids Inc. (HKI) has formed a strong partnership in the community that has been recognized by receipt of outside funding to hire education specialists that assist youth in foster care in establishing career goals and identifying the needed course work to achieve these goals, as well as ensuring that the student is receiving the proper services through the school system. HKI was also selected as a pilot site for the "Connected by 25" program which assists youth as they transition to adulthood to ensure that they have the resources need to be successful by age 25.

The department will continue to work with these providers and assess contracts for sufficiency, as well as ensure model practice is shared.

As mentioned earlier, the Office of Quality Management will be restructured and will begin transition to a new model of monitoring in April 2006. The new model will use core elements specific to independent living services and place greater accountability at the Community-Based Care level with validation at the Zone level. The recommendations contained in this report regarding quality assurance efforts are endorsed and underway.

Finally, the federal Child and Family Services review instrument has been modified for the next round of reviews. States have been noticed on proposed changes and we should expect to have a Rule section of the review instrument devoted to teens in foster care, specifically.

Please feel free to contact myself or Director of Family Safety Beth Englander if any further information is needed.

Sincerely,

/s/ Lucy D. Hadi Secretary

cc: Sheryl Steckler, Inspector General
Beth Englander, Director of Family Safety Program Office



November 2004

Report No. 04-78

Independent Living Minimum Standards Recommended for Children in Foster Care

at a glance

The Department of Children and Families' Independent Living Transition Services Program provides children and young adults formerly in foster care with services and financial assistance to help them successfully transition into adulthood. As directed by law, this report recommends standards for providing independent living transition services. These standards are organized into eight areas:

- life skills:
- housing;
- education:
- employment;
- health:
- aftercare and transition;
- training; and
- data collection and evaluation.

We also provide examples of programs throughout the state that are working to follow these practices.

Scope -

This is the first of two reports examining services designed to prepare youth in foster care for adult independence. The Legislature directed OPPAGA to recommend minimum system standards in providing foster youth with independent living services. ¹ These services are designed to help foster youth transition from state-sponsored care to living independently as productive citizens. The Department of Children and Families contracts with private providers for independent living services. The department is responsible for overseeing these providers. A second report will examine performance issues associated with the delivery of independent living services.

Background -

Independent living transition services are designed to help foster youth and young adults formerly in foster care obtain life skills and education so that they can live independently. Adolescence is a time of growth, learning, and developing independence, and most youth, with the support of their family, make a successful transition to adulthood. However, youth in the foster care system often lack the guidance, support, and training to learn the skills necessary to function independently when they leave the system.

¹ Chapter 2004-362(5), Laws of Florida.

To improve the success of foster youth, Congress passed the Foster Care Independence Act of 1999 (Public Law 106-169) which provides funding to states to improve services and expand eligibility for independent living services. This act also mandates reporting requirements and provides flexibility for state programs. In 2002, the Legislature created s. 409.1451, *Florida Statutes*, which established a framework for Florida's independent living program.

Florida law requires a continuum of services and financial assistance to assist foster youth. As of October 31, 2004, there were 5,301 foster

youth between the ages of 13 and 17, inclusive, under state care and all were required to receive pre-independent living services. In addition, as of October 31, 2004, 1,815 former foster youth between the ages of 18 and 22, inclusive, were receiving aftercare and transition services. (See Exhibit 1 for eligibility and service requirements.) These services are important because when foster youth turn 18, their foster families or group homes no longer receive payment from the state for their care. Consequently, many must move out of their homes and are not always fully prepared to live independently.

Exhibit 1
Florida Law Requires Independent Living Transition Services for Foster Youth

Eligibility	Description
All 13-14-year-olds in foster care	 Life skills training Educational field trips Conferences
All 15-17-year-olds in foster care	 Banking and budgeting skills Interviewing skills Parenting skills Educational support Employment training Counseling
Some 16 and 17-year-olds chosen by the department as being able to demonstrate independent living skills	Arrangements that allow a child to live independently of the daily care and supervision of an adult.
Youth aged 18-22, inclusively, who have been in foster care, meet certain conditions, and are determined eligible by the department. Temporary assistance provided to prevent homelessness. The amount provided is based on funds available.	Services to assist young adults who were formerly in foster care to continue to develo the skills and abilities necessary for independent living. Mentoring and tutoring Mental health services and substance abuse counseling Life skills classes, including credit management and preventative health activities Parenting classes Job skills training Counselor consultations Temporary financial assistance
Youth aged 18-20-year-olds (initial award) Under 23 (renewal awards) Must meet one of the following criteria:	Financial assistance to help former foster children to receive the educational and vocational training needed to achieve independence.
	All 13-14-year-olds in foster care Some 16 and 17-year-olds chosen by the department as being able to demonstrate independent living skills Youth aged 18-22, inclusively, who have been in foster care, meet certain conditions, and are determined eligible by the department. Temporary assistance provided to prevent homelessness. The amount provided is based on funds available. Youth aged 18-20-year-olds (initial award) Under 23 (renewal awards)

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Service	equivalent and has been admitted for full-time enrollment in an eligible postsecondary education institution; (2) enrolled full time in an accredited high school; (3) is enrolled full time in an accredited adult education program designed to provide the student with a high school diploma or its equivalent	Description educational needs of the young adult and may be up to, but shall not exceed, the amount of earnings that the student would have been eligible to earn working a 40-houra-week federal minimum wage job.
Transitional Support Services	Youth aged 18-22, inclusively, who have been in foster care, and that demonstrate that the services are critical to the young adult's own efforts to develop a personal support system and achieve self-sufficiency.	Other appropriate short-term services, which may include: Financial Housing Counseling Employment Education Mental health Disability Other services, if the young adult demonstrates that the services are "critical" to achieve self-sufficiency

Source: Section 409.1451, Florida Statutes.

Young adults are eligible for financial assistance through the program. The Road to Independence Scholarship provides cash awards of up to \$892 per month for young adults finishing high school or enrolled fulltime in postsecondary education. Former foster youth are exempt from paying tuition at state universities, so the scholarship funds are generally used to support their housing and expenses. Young adults are also eligible to receive aftercare and transition funding to provide temporary financial support to prevent homelessness or to assist with living expenses. Maximum funding for transitional aftercare services are \$5,000 and \$1,000, respectively, and depend on the funds available.

Currently, private child welfare organizations deliver most of the independent living services in Florida through the community-based care model. ² The Department of Children and Families will provide these services in Brevard and Miami-Dade counties until January 2005, when community-based care organizations will begin providing these services.

For Fiscal Year 2004-05, the Independent Living Transition Services Program has an approved operating budget of \$18.8 million. This includes \$16.6 million in H. Chafee Independence Program and Education and Training Voucher grants (including 20% state match). The remaining \$2.2 million is general revenue used primarily to serve young adults 22-to-23 years old who are not covered by the federal grants.

Standards for Independent Living Services ————

Legislature, As directed by the we minimum standards recommended for independent living services. We identified these standards through reviews of literature and discussions with stakeholders, including foster youth, foster parents, advocates, Department of Children and Families officials, and community-based care providers that administer and deliver independent living services to foster youth. These standards are organized into eight areas: life skills, housing, education, employment, health, aftercare and transitional services, training, and

² See OPPAGA <u>Report No. 04-65</u> for more information on the implementation of community-based care in Florida.

collection and evaluation. This report also includes examples of Florida programs that currently follow these practices.

Life Skills

OBJECTIVE - Providers should offer foster youth life skills in daily living, self-care, and money management.

Research shows that as a result of being raised in institutions or a succession of foster homes, many foster youth nearing emancipation have not mastered the skills necessary for selfsufficiency. While youth living with parents can gradually learn how to cook and clean, manage money, problem solve, and practice suitable self-care, most foster youth have not significantly bonded with an adult who can mentor and teach these skills. School changes accompanying the succession of foster institutions and homes further works against foster youth benefiting from any life skills courses taught in schools.

Focused life skills classes can help fill these developmental gaps. Research shows that community-based care providers should offer "hands-on" and "real-world" opportunities in the areas of daily living skills, self-care, and money management. ³

Minimum standards

- Daily living skills should include instruction in nutrition, menu planning, grocery shopping, meal preparation, dining decorum, kitchen cleanup, food storage, home management, and home safety. Opportunities for youth to apply these skills would include developing menus, shopping for ingredients, preparing meals, cleaning the kitchen and dishes at the conclusion of the meals, and appropriately storing leftover food.
- Self-care skills should include instruction about topics such as hygiene, health,

³ "Life Skills Guidebook," Casey Family Programs, 2001; "Promising Practices," National Child Welfare Resource Center for Organizational Improvement, 2004.

- alcohol, drugs, tobacco, parenting skills, and responsible sexuality. Opportunities for youth to apply these skills would include discussions as well as role playing and rehearsal of parenting and hygiene skills
- Money management skills should include budgeting, saving, managing credit, opening bank accounts, filing income taxes, and becoming an informed consumer. Opportunities for youth to apply these skills would include opening checking and savings accounts, developing budgets based on income and monies in bank accounts, filing taxes, and working with caregivers to monitor their respective budgets.

Current program examples

- The Opportunity Passport Program in St. John's County is funded through a grant from the Jim Casey Youth Opportunities Initiative. Program staff help foster youth open a debit account to deposit their pay or benefits checks and pay their bills. Youth are also provided with a matched savings account to develop the habit of savings as a means to attain the economic selfsufficiency such savings provides. The matched savings account is seeded with \$100 from the community-based care provider and is matched dollar-for-dollar with deposits made by the youth up to \$1,000. This national program is being implemented by the Family Integrity Program.
- Y Girls Rule, operated by the Ophelia Project of Tampa Bay for foster girls aged 13 to 17, promotes self-care, self-awareness, and financial literacy. Girls meet weekly with a facilitator and adult mentor to participate in activities intended to teach effective problem solving and stress reduction, money management, and making and preparing healthy food choices.

Housing

OBJECTIVE - Providers should offer opportunities for supervised independent living and identify innovative housing options.

Securing housing for foster youth who turn 18 is crucial, since group and foster family homes are no longer obligated to care for these youth once they become adults, even if the youth is in the middle of his or her senior year of high school. Many foster youth have difficulty making the transition from group and foster family homes to self-supported housing. This difficulty is caused by three barriers: high rental costs, a limited number of affordable rental units, and the unwillingness of landlords to rent to young tenants with no work or credit history.

Helping foster youth overcome these barriers is important. Research reported by the National Conference of State Legislatures shows that 20% to 25% of the homeless were at one time in foster care. ⁴ Homelessness jeopardizes the investment that caregivers and taxpayers have made in ensuring that foster youth acquire the sufficient skills required for productive citizenship.

Minimum standards

- Community-based care providers should develop contacts with housing programs and develop working agreements with government housing authorities and landlords willing to set aside rental units for foster youth while also waiving income, credit, and co-signing requirements. 5
- Providers should develop or create housing options for youth by acquiring apartments or apartment leases that are set aside for rental to foster youth. These programs are

- typically referred to as "scattered site" housing, as foster youth live with limited supervision in these units that are scattered around town.
- An independent living coordinator or a case worker should regularly visit youth in independent living housing to help resolve any problems that may occur and to help ensure youth are properly caring for themselves and the property.

Current program examples

- Turtle Nest Village, a private non-profit organization in Palm Beach County, provides housing to emancipated foster youth by leasing and paying for rental units scattered throughout the county. A social worker routinely checks in on the youth and makes sure youth are caring for themselves and the property. When the youth graduate 18 to 24 months after entering the program, the apartment leases are transferred to the youth's name, if so desired by the youth. Turtle Nest Village takes this action to facilitate the youth's transition to stable independence.
- Place of Hope, in Palm Beach Gardens, provides four licensed family cottages to serve up to 24 foster youth. This organization also provides mentoring and tutoring to help youth prepare for life after foster care. Supervision is provided by two full-time professionally trained parentfigures who live in each of the four cottages.
- The Sarasota YMCA has secured federal Housing and Urban Development funding, which entitles youth to Section 8 housing as an alternative to homelessness.

⁴ Independent Living for Foster Youth, National Conference for State Legislatures, Report No. 6315, February 2002.

Most foster youth at 18 have no credit history, little work experience, and insufficient income to qualify for the apartments on their own.

Education

OBJECTIVE - Providers should coordinate educational services, facilitate career plan development, provide tutors, and help youth attain postsecondary education.

Research has shown that foster youth often fall behind their peers in educational attainment due to disruptions throughout their educational careers. Youth in foster care are more likely to drop out of school, less likely to receive a high school diploma or a GED, and less likely to participate in postsecondary education. Since educational success is a key to financial self-sufficiency, coordinated educational services are critical to help foster youth succeed academically. Programs that promote educational stability and integration are most likely to promote educational success.

Minimum standards

Providers should assign youth an education advocate to help youth gain access to needed resources and participate fully in curricular and extracurricular activities. These assigned advocates should communicate regularly with school personnel and monitor school enrollment, attendance, course selection, educational placement, and performance. If foster youth are struggling academically, their advocates should help them obtain appropriate support, accommodations, and services to improve their chances of success. To ensure that youth receive appropriate support, the advocate should educate school personnel on the special needs of foster care youth and promote closer collaboration among school guidance counselors, foster parents, and providers (e.g., the independent living coordinator and foster parent should attend Individual Education Plan (IEP) staffing and the guidance counselor should attend foster youth staffings.)

- Independent living providers should help foster youth develop a career plan. The plan should include the youth's interests, strengths in school, visions for career and personal life, and opportunities for career and work experience.
- Providers should assist youth in accessing postsecondary education to increase the likelihood that foster youth will follow through on plans for future education. To encourage youth to go on to postsecondary education, independent living coordinators need to be particularly involved in helping youth with entrance and financial aid applications. They also should take youth to visit college campuses and maintain relationships with the financial aid offices of local colleges. Once they are enrolled in an educational or vocational program, providers should offer services to help the youth remain in school. For instance, if the student is living on campus, providers should find places for youth to spend holidays and summer vacations when college housing is not available.
- Providers should assign tutors to foster care youth. Tutors can help youth improve their grades and, as a result, their chances to succeed. Since many of these youth fall behind in school, access to additional academic help is crucial. Assistance can come from the school system, local universities, local literacy programs, and volunteer organizations such as the Kiwanis Club.

Current program examples

The Broward County School District and a local independent living provider have established an interagency agreement to improve school permanency. If a child moves out of a particular school zone due to a change in the foster home placement, the school district will not require the child to change schools but will continue to transport the child to the original school. Report No. 04-78 Information Brief

- ChildNet, in Broward County, employs an educational services specialist who serves as a consultant/liaison with independent living specialists, foster parents, and service providers about specific issues related to school board processes, procedures, and services. The specialist will also track the educational progress of the youth.
- FamiliesFirst Network, in Escambia
 County, has an agreement with Sylvan
 Learning Center to reserve slots for foster
 youth to receive tutoring.

Employment

OBJECTIVE - Independent living providers should connect youth with local industries and employment programs so that youth have the opportunity to explore career opportunities and develop a plan to achieve their career aspirations.

Without employable skills, former foster youth are far more likely than other young people to experience poverty and go on welfare. According to a national study, 40% of youth were unemployed 12 to 18 months after leaving foster care. However, foster youth who have held a job before their eighteenth birthdays are four times more likely to graduate from high school and work after emancipation. ⁶

Minimum standards

Providers should develop partnerships with employment programs and local industries so foster youth will have opportunities to learn about career options and gain career-related work experiences. These partnerships may lead to opportunities such as career days, job shadowing, job mentoring, and internships. Youth are more likely to pursue their educational and career goals when they have the opportunity to earn

- money while working in a field they are interested in.
- Providers should offer job search training in areas such as resume writing and interviewing. These classes can help youth develop the techniques and skills they need to get and keep a job. For example, providers should conduct mock interviews with the youth to help them learn crucial interviewing skills.
- Providers should help youth obtain parttime work while in foster care. Since parttime work while in foster care is a strong predictor of long-term educational and economic success, connecting young people in foster care to part-time jobs should be a high priority. Community leaders, educators, employers, and child welfare officials should develop community-based opportunities for foster youth. Youth who have the opportunity to earn money while working in a field of interest are more likely to pursue their educational and career goals.

Current program examples

Several community-based care organizations work with their local One-Stop Career Centers (formerly known as unemployment offices), to help young adults find jobs and learn the skills needed to obtain these jobs. For example, ChildNet and the Sarasota YMCA have an independent living coordinator on the local workforce board, which increases awareness of the needs of the foster care population. Coordination with these offices is important because they provide job skills classes that teach skills such as resume writing and interviewing. Workforce offices can also assist youth through their extensive database of job listings.

⁶ Connected by 25: A Plan for Investing in Successful Futures for Foster Youth, The Youth Transition Funders Group Foster Care Work Group with the Finance Project, March 2004.

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The Youth Passport Program, provided through the Sarasota YMCA, teaches teenagers skills needed to succeed in the workplace through adoption of workplace practices such as completing a timesheet, dressing appropriately, and professional etiquette. This program has a two-stage process. The first stage provides youth work readiness skills and the second places the youth in employment or training so that they can apply their new skills immediately.

Health

OBJECTIVE - Providers should teach health care education; offer health screenings; prepare youth to manage their own medical, dental, and mental health needs; and link them with community health resources.

Research shows that foster youth are more likely to have physical and mental health problems than the general population. One study found that foster youth have three to seven times as many health, developmental, and emotional problems as non-foster youth from similar socioeconomic backgrounds. Moreover, youth lose their Medicaid eligibility when they leave the foster care system and generally find employment in low wage jobs that offer little or no health insurance.

Minimum standards

- Providers should ensure that youth are provided health care education prior to leaving the foster care system. Basic health education includes first aid, nutrition, physical fitness, mental and emotional health, medication use, and basic methods of assessing one's own medical needs. The curriculum also should include education on responsible sex and information on communicable diseases.
- Providers should require that each youth undergo health screenings prior to leaving the foster care system, including screenings for high blood pressure, high cholesterol,

- diabetes, sexually transmitted diseases, gynecological health, eating disorders, and emotional health. The provider should offer basic health care management consistent with youths' specific health problems. For example, if a health screening finds that a foster youth has asthma, the provider should make sure the youth knows how to manage his or her asthma.
- Providers should help youth develop a health plan as part of their transition plan from foster care to prepare them to manage their health care needs when they are living independently. Providers should ensure that each youth's transition plan includes all previous health information (e.g., immunizations, past health care treatment), future routine health care needs (e.g., annual physicals and dental cleanings), health insurance options (Medicaid or private provider), and specific health care providers the youth can visit to continue his or her health care, such as a primary care physician and dentist.
- Providers should identify community health resources and link youth with these services. For example, providers should identify physicians who are willing to serve Medicaid enrollees and/or former foster youth at low or no cost. Providers also should cultivate relationships with the health care community and educate them on the special needs of this population. One way to do this is to invite members of the medical community to serve on the board of directors of a community-based care organization. Local county health departments or local walk-in clinics are also good resources for low-cost health care. Some community-based care providers are better positioned to offer certain types of health care because they belong to larger parent organizations that offer these services.

Current program examples

- Hillsborough Kids, Inc., works with the county health department to provide a low cost health care system for foster youth who are not Medicaid eligible.
- The FamiliesFirst Network, an independent living provider in Pensacola, is part of the Baptist Health Care Corporation and therefore has access to the corporation's health care network. In addition, Intervention Services Incorporated, in Orlando, which offers independent living services, also provides mental health services to the community.
- Manatee Glens, a provider located in Sarasota, has identified local medical providers who agreed to provide free mental health care to foster youth.

Aftercare and Transitional Services

OBJECTIVE - Providers should require youth to develop a transition plan to prepare them for independence and should assign mentors to help them as they transition to adulthood.

Former foster youth are eligible to receive aftercare and transitional services. These services include temporary financial assistance, parenting classes, education, job training, and counseling services. These services are important because many youth have not mastered the skills necessary to live on their own. To better ensure the success of these services, providers should help foster youth plan for transition and link them with mentors.

Minimum standards

Before youth leave the foster care system, providers and youth should jointly develop and sign a formal transition plan describing how the youth will successfully move from state custody to independence. At a minimum, the plan should indicate what steps the youth will take to meet his or her education and vocational goals, identify

- community services the youth can turn to if he or she needs assistance, and outline individualized tasks the youth will undertake to meet specific challenges identified on his or her personal independent living assessment.
- In addition to the transition plan, foster care providers should connect each youth aging out of the system with adult mentors in the community. Mentoring relationships provide support and advocacy for foster youth and assist them with personal, academic, and career development. A supportive mentoring relationship is crucial for young adults aging out of the foster care system who lose their support structures, such as a foster family or group home environment. Providers should offer specialized training to mentors (e.g., crisis management, effective communication techniques) to help youth deal with the obstacles of young adult life and should have a strong employment history in order to assist with work readiness.

These mentors could include volunteers in the community or, if resources are available, employees of the independent living provider. Foster care providers should tap into existing community mentoring resources, such as Big Brothers Big Sisters, or identify local businesses that are willing to link its employees with the youth. Some providers have recruited adults who have successfully transitioned from foster care to serve as mentors for recently emancipated youth.

Current program examples

Hillsborough Kids, Inc. requires youth to sign a formal transition plan prior to leaving foster care. The plan is in effect a contract between the youth and the provider that requires youth to meet the plan's requirements in areas such as life skills, education, and employment. If the youth fails to follow the plan's

- requirements, the provider can terminate services, including financial assistance.
- The CHARLEE program in Miami-Dade County has drafted an Independent Living Resource Guide that provides youth with housing, identification (e.g., drivers' license), health care, educational, and legal resources in the Miami-Dade area.
- Kids@Home in Fort Lauderdale employs "life coaches" to assist young adults who have aged out of the foster care system. These mentors help link the youth with medical, dental, housing, and educational resources in the community regardless of whether the youth are receiving services. The goal is to have a knowledgeable adult who is involved with the youth on a consistent basis.

Training

OBJECTIVE - Providers should require continuing education and training for staff in order to better serve the needs of youth and to improve their advocacy skills for promoting community delivery of services to these youth.

To help ensure that foster youth throughout the state are provided with independent living programs of consistent content and quality, the Department of Children and Families should create statewide training standards. standards will help ensure that regardless of whether training is administered to groups or individuals, or in rural or urban areas of the state, the content and quality of the programs same. **Opportunities** the community-based care providers to share with one another how they are meeting these requirements should also be provided to further ensure consistency across the state.

Minimum standards

 Training requirements should include an overview of the foster care system and all the services required by law to be delivered to the youth. Training that outlines these

- services is important because staff are now required to submit to the court a report showing how the law has been met in providing each youth the services and assessments necessary to prepare him or her for independence (s. 39.701, Florida Statutes).
- Data collection and program evaluation training should include data sampling and evaluation techniques that indicate whether youth are advancing toward selfsufficiency. If provider programs do not yield positive results, they should be revamped. To make these assessments, data must be properly collected and evaluated.
- Training should include techniques for both administering and interpreting the Ansel-Casey and Daniel Memorial life skills assessment instruments. Interpretation of these assessments is especially important because they identify problem areas that can delay a youth's progress toward independence. In addition, proper interpretation of these assessments helps ensure that staff focuses on developing those skills most needed by the youth.
- Crisis intervention and behavior management training geared toward adolescents should be included to help ensure that staff are trained to deal with the unique needs of adolescents.
- Training addressing the needs of youth with disabilities, particularly youth with educational disabilities (e.g., youth in exceptional student education) is necessary. These standards will help ensure that special needs youth will not be left behind and can, like their cohorts, successfully transition to living independently.
- Training standards should require outreach with other community service providers, like schools, medical providers, employment agencies, etc., help inform these other providers how they can help meet the special needs of foster youth.

This is particularly important with schools, since independent living providers reported that school districts are not generally aware of the special educational challenges of foster youth and need training on the importance of school permanency and Individualized Education Plan (IEP) planning with foster youth. Training that teaches staff how to convey to foster parents what they need to be teaching the youth in their care is also important.

Current program examples

The Department of Children and Families sponsors a yearly Dependency Court Improvement Summit that provides a forum for best practices in the foster care system. At this summit, community-based care providers have an opportunity to share what is working and not working with the youth in their care and to gain ideas for innovative programs that can improve the lives of foster youth.

Data Collection and Evaluation

Providers should track client progress to assess individual and program performance.

It is important for providers to track youth progress in meeting independent living goals, such as educational milestones and completion of life skills training. Pre- and post-test comparisons and longitudinal tracking enables providers to ensure that their programs are having a positive result. Programs that are not getting desired results should be revamped.

Providers should not only track program results, but also how many youth they are reaching. Offering an effective independent living program to only a fraction of the program's foster youth is not effective for youth or taxpayers. Providers need to seek ways to keep foster youth engaged and participating in their programs.

At a minimum, the success of a provider's program should be based on how well foster youth progress on three major variables: education, life skills, and employment. Without minimum skills in these three areas, foster youth cannot hope to live self-sufficiently. Indicators upon which each of these variables should be measured are described below. ⁷

Minimum standards:

At a minimum, education indicators should include

- percentage of youth at or above grade level;
- percentage of youth taking college preparatory courses;
- percentage of youth graduating from high school;
- percentage of youth completing a general equivalency degree (GED); and
- percentage of youth entering and completing a two-year and/or four-year postsecondary education.
- percentage of youth completing a vocational program.

At a minimum, life skills indicators should include

- percentage of youth receiving life skills training:
- percentage youth completing a financial literacy course;
- percentage of youth opening and maintaining an active bank account;
- percentage of youth with a medical care provider;
- percentage of youth who are unwed parents;

Many of these indicators are drawn from the publication entitled Connected by 25: A Plan for Investing in Successful Futures for Foster Youth. It was prepared by the Youth Transition Foster Care Work Group and the Finance Project in March 2004.

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- percentage of youth 18 and over with housing;
- percentage of youth homeless for at least one night;
- percentage of youth arrested;
- percentage of youth on probation; and
- percentage of youth incarcerated by the Department of Corrections or the Department of Juvenile Justice.

At a minimum, employment indicators should include:

- percentage of youth who are employed;
- average length of time youth retain their jobs;
- percentage of youth in jobs with health benefits;
- percentage of youth employed in jobs paying above minimum wage.

Current program examples

 The Corner Drug Store in Gainesville tracks a number of these outcomes on specialized software designed for this purpose.

Conclusions

Comprehensive and effective independent living transition services are a key to helping youth function as productive citizens and acquire skills needed for pursuing an education, finding a job, obtaining suitable housing, and protecting their health and well being when they leave the foster care system. The recommended minimum statewide standards of care should help ensure that providers provide services to better ensure that foster youth leave the system prepared for adulthood.

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021 or 800/531-2477), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

Florida Monitor: www.oppaga.state.fl.us

Project supervised by Kathy McGuire (850/487-9224)
Project conducted by Linda Vaughn (850/487-9216), Marti Harkness (850/487-9233), and Susan Speck (850/487-9223)
Gary R. VanLandingham, OPPAGA Interim Director